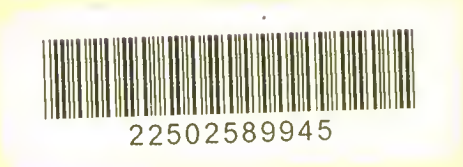
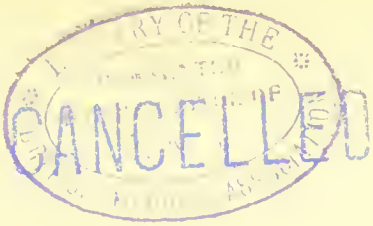
ALCOHOL: ITS PLACE & POWER IN LEGISLATION

ROBINSON SOUTTAR, M.A., D.C.L.





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BY

ROBINSON SOUTTAR, M.A., D.C.L.

AUTHOR OF

"A SHORT HISTORY OF ANCIENT PEOPLES"
"GLIMPSES OF OUR EMPIRE," ETC.

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To the Magistrates who, in the matter of licensing, have been constituted Trustees for the Commonweal, this treatise is dedicated, in the hope that a survey of matters relating to the Liquor Question, written in moderate language, may prove useful at the present crisis.

Preface

THIS survey of the liquor question is based upon a dissertation which I presented to the Faculty of Law at Oxford University when qualifying for the degree of Doctor of Civil Law, and which I am permitted to publish.

As the dissertation had necessarily to be written in strictly judicial form it has required alteration in order that it might suit its present purpose.

Certain chapters of a non-legal character have been added, and the law of licensing in Scotland has been brought up to date.

I have endeavoured to write without bias, and I hope that the treatise will prove serviceable to men who regard the problems arising from the use of alcohol from very different points of view.

I am indebted to Dr. Dawson Burns for kindly criticism, and to Mr. Franklin, Oxford, and Mr. Norman Macpherson, Edinburgh, for revising Chapters III. and VI.

ROBINSON SOUTTAR.

LONDON, 1904.

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CHAPTER I

THE RIGHT OF THE STATE TO INTERFERE WITH THE LIQUOR TRAFFIC

1. The Collection of Revenue.

TAXATION for fiscal purposes is inevitable in a civilised state, and the only question to be considered is how taxation can be most judiciously levied. Economy of collection is one important factor, and it happens that taxation upon alcoholic drinks can be collected economically. In earlier times private stills were common and taxation upon liquor was easily evaded. But alcoholic liquors are now manufactured in large breweries and distilleries, easily inspected by the State, so that the collection of the duty is easy.

Again, in choosing commodities for taxation, it

is important that the State should, as far as possible, select luxuries. This cannot always be managed. India, owing to the poverty of the people, can hardly be said to have any luxuries, and the Government raise revenue from necessaries such as salt. This is a misfortune, for it increases the poverty of those who are already poor enough. But no one is compelled to use alcohol, and in taxing it the State chooses a commodity which can be spared by all in depressed circumstances.

Moreover, not only can alcohol be spared, but it is for the interest of the individual, and therefore of the State, that it should be used in strict moderation. An effective way of discouraging the consumption of alcohol is by making it expensive, and taxation has this effect. This policy has, however, strict limitations. Were alcohol so taxed that the price became prohibitory, the result would be that smuggling and shebeening would take the place of open manufacture and sale. The cost of repressing these evils would be enormous, whilst the revenue would largely disappear. An illustration of this was afforded in England in the eighteenth century, when the con-

sumption of spirits so increased that in 1736 an Act was passed of a prohibitive character. But the passion for drinking could not be arrested by law. Rioting and murder ensued, a clandestine trade sprang up, and the prohibitive policy had to be abandoned. In taxing stimulants therefore the State must be careful not to pass the point where taxation produces a maximum revenue; that is, the point beyond which revenue will fall, not because the people are abstaining, but because they are obtaining liquor through illicit channels.

In order that the State may carry out its fiscal policy systematically, it is better that the manufacture and sale of intoxicants should be entirely in the hands of a limited number of authorised persons. This is one of the objects of licensing.

2. The Interest of Public Safety.

That the State has a right to raise revenue from the sale of intoxicants few will deny, and in some countries interference with the traffic goes no further. But in other countries the State assumes a quasi-parental attitude towards the seller and user of liquor. This attitude is not assumed with regard to the sale or use of commodities in

general, and it will be well to see how far it is justifiable in connection with the liquor traffic.

(1) Might not the sale of intoxicants be left to the operations of the ordinary laws of supply and demand ?

In early times men were allowed to traffic freely in liquor. Amongst certain peoples drunken orgies formed part of their worship, and were not counted reprehensible. Even so lately as a century ago few States seriously interfered with drinking. The nineteenth century witnessed a great social change. The extraordinary progress of invention during that century developed the modern State. Countries became densely peopled, cities sprang up, sanitary science advanced, the conditions of healthy living became understood. The stricter regulation of the liquor traffic was a result of this development. The State did not interfere with the traffic from puritanical motives, interference became necessary in the interest of public safety and well-being.

In Scandinavia, sixty years ago, any one, on payment of a trifling tax, could manufacture and sell bränvin. In Sweden alone there were

173,124 stills, and every cottage was a public-house. From this state of affairs Scandinavia emancipated herself, not from devotion to the cause of temperance, but to save the nation from destruction.

In early times Englishmen drank heavily, but the State did not interfere. As population increased, and the business of government was better understood, it became clear that the unchecked sale of liquor was inimical to public safety, and the State had to exercise control. Free sale was interdicted, and licenses were granted to certain persons to sell under strict regulation.

Even in modern times communities have tried free trade in liquor. But the police reports soon undeceived them, and there was a speedy return to the stricter method.

(2) Is not the interference of the State with the liquor traffic an infringement of personal liberty ?

Drinking would seem to be a matter of private conduct. In matters of private conduct are not men the best judges of their own interests, and

whether they drink much or little has the State a right to interfere?

This argument might have some weight if men who drank to excess, formed a society by themselves and injured none but themselves. But this is not the case. The drinker and the abstainer have to live side by side in society and must equally conform to its rules if they would live in comfort.

When the world was sparsely peopled there may have been more appearance of independence, but even then there had to be mutual concession, and it is doubtful if men had more personal liberty in the ancient than in the modern State. In some States, in Sparta for instance, there was less liberty. The ancient State justified interference with personal liberty on the ground of military necessity. The modern State justifies it on the ground of public safety. The advance of civilisation has brought its own obligations, and the manner of interference has changed.

In the twentieth century Building Acts control the planning of our houses; Municipal Acts regulate their cleansing; Education Acts stipulate how our children shall be reared. If we have

infectious diseases at home, the authorities must be notified, and may remove our nearest relative from our care. And, lest one particular disease should spread, the law requires us to interfere with the course of nature, and to submit our children to vaccination.

In all these matters personal liberty is infringed. It is found that the community is safer and happier when houses are well built, streets cleansed, and children educated. The State has learned that, in the case of disease, prevention is better than cure, and it acts accordingly. If therefore a man desires to enjoy the common life, he must obey the common law. He must part with a portion of his liberty in order that he may be confirmed in the enjoyment of the remainder.

There is no tyranny in this. Legislation which has the approval of the majority of the people, or their representatives, should be accepted until it can be changed. Every law must, in the nature of things, limit individual liberty, but the advantages of the law may outweigh the disadvantages of the limitation. Each case must be taken on its merits. Sometimes the State interferes to oppress, sometimes to break oppression, sometimes its

action narrows the boundaries of freedom, sometimes it renders them more wide.

The case of the liquor traffic must be taken on its merits like the rest. If drink is a root of much evil, if it degrades the mind, and causes the body to deteriorate, if it is proved to be a fertile source of crime, insanity, and pauperism in the State, if it destroys national wealth, and endangers national prosperity, then the regulation of the drink traffic forms a fit subject for legislation, and the question of personal liberty is of secondary consequence.

But the particular method of interference will always present a fair field for discussion.

(3) Have not abstainers also rights which may be infringed by the liquor traffic?

We hear much of the obligation resting on the State not to interfere with the rights of those who sell and use intoxicants, but we must not forget that others have rights as well as they. There are in most communities persons who do not use intoxicants, and to whom their open sale causes pain. These citizens lead exemplary lives. Neither gaols nor workhouses exist for them,

and if they have an interest in the police it is chiefly in order that they may be protected from the drinking section of the community. If other citizens followed their example taxation would be light, and poverty almost unknown. Have these persons no claim to consideration? Must they suffer in silence whilst their eyes and ears are offended at every corner by the traffic and its fruits? Surely if there is any conflict with regard to personal liberty, the liberty of the most law-abiding section of the community should be considered first. Generally speaking it has been otherwise. Philosophers have argued and senators legislated in the main as if the sellers and users of alcoholic liquor were the only persons in the community whose right to personal liberty need be taken into account.

(4) Can State interference with the liquor traffic be justified on the ground of utility?

(*a*) In matters of private conduct is not voluntary action best?

The value of voluntary action is great, and no branch of social work has called forth more of it

in late years than that which we are discussing. But there are forces with which unaided voluntary effort cannot successfully grapple.

Long experience shows that where the liquor traffic is concerned State action and voluntary effort should go hand in hand. In countries like Belgium and France, for instance, where neither legislation nor voluntary effort has attempted to check the traffic, the increase in alcoholic consumption is most serious; in the United Kingdom, where there has been voluntary effort but not much restrictive legislation, consumption has remained stationary; in Canada, Scandinavia, and certain parts of the United States, where voluntary effort and restrictive legislation have gone hand in hand, there has been a diminished consumption of alcohol and a striking improvement in the condition of the people.

(*b*) Does the public good justify interference?

To know the true good of the community is the science of legislation, and the chief object of the legislator should be to increase pleasure and diminish pain. To which side in this instance does the balance sway?

It may be acknowledged, on the one hand, that the use of alcohol brings pleasure ; it will be acknowledged, on the other hand, that it causes pain. Which of these preponderates, and what would be the effect of restrictive measures upon the poise of the balance ?

It would be outside the scope of this treatise to discuss the evils connected with the liquor traffic, even if they were not sufficiently obvious. We know, on authority which cannot be questioned, that much of the sickness, pauperism, insanity, and crime by which the country is afflicted, is due to this one cause. Undoubtedly the injudicious use of alcohol adds enormously to the sum of human pains.

On the other hand, the moderate use of alcohol produces a certain amount of pleasure. Of this, restrictive legislation does not deprive the moderate drinker. There is nothing even in prohibitory legislation that attempts to prevent the use of alcohol. The Maine Liquor Law, which is the most thoroughgoing piece of prohibitory legislation that can be found, only prohibits the manufacture and sale of liquor within the State itself. Residents in Maine may import

liquor from other States, keep it in their homes, and drink as much as they like. Against this there is no law.

The use of alcohol has been prohibited by the founders of various Eastern faiths, and Mahomedans, Hindoos, and Buddhists are generally abstainers. But few efforts have been made by the governments of Western States to prohibit their peoples from drinking. Occasional efforts have been made in that direction, but they have been of a fitful character. Of course laws have been passed to punish the drunkard, and in some countries to punish the vendor of drink. But that is a different matter.

Legislators who desire to restrict the sale of liquor need not, therefore, dread lest they should interfere with the sum of human happiness. They may diminish the pains of humanity greatly by their action, but they are not likely to lessen their pleasures.

(*c*) Is interference likely to be of practical value ?

There is a saying that men cannot be made sober by Act of Parliament, and that is, in a

sense, true. Good men will remain good under bad laws, and evil men will find ways of evading good laws. But this is only a part of the case. Differences between men are largely produced by their environment, and in environment laws count for much. Though good men may remain good, and bad men may remain bad for a time, yet in the long run the laws of a people will transform their character, and determine whether goodness or badness shall predominate.

Before the passing of the prohibitory liquor law the people of Maine were very drunken and miserably poor. After half a century's operation of the law Maine is now the most sober State of the Union, and its people compare favourably for wealth with those of other States.

Sixty years ago Norway and Sweden were extremely drunken countries, and the physical condition of the people was lamentable. Restrictive liquor laws were passed, and the consumption of alcohol fell greatly. These countries are now quoted as models of sobriety, and the physique of the people leaves nothing to be desired.

Another illustration may be drawn from Russia,

where, within the last few years, the vodka seller has been suppressed and a Government spirit monopoly has been established. The vodka seller was a root of much evil in that country, and the material prosperity of the peasantry is said to be improving under the new method.

From the above considerations we may conclude as follows :—

1st. That the State has a right to control the liquor traffic.

2nd. That by controlling the liquor traffic wisely the State may greatly increase the happiness of the people.

3rd. That it is therefore the duty of the State to legislate upon the subject.

The form that legislation should take is a fair matter for discussion, and can be best decided after carefully considering how the matter has been dealt with in our own and in other lands.

CHAPTER II

THE HISTORY OF LICENSING IN ENGLAND

IN 1495 the sale by retail of beer and ale was placed under the control of the justices of the peace. Any two justices were empowered "to put away comen ale selling in taverns and places where they shall think convenyent, or to take suretie of keepers of alehouses in their good behaving." 11 Hen. 7, c. 2.

In 1551 an Act was passed which may be looked upon as the foundation of our present system. The Act set forth that intolerable hurts and troubles to the commonwealth were daily growing and increasing through abuses and disorders in common alehouses and tippling-houses. It confirmed the power of suppression already possessed by the justices, and enacted 5 & 6 Edw. 6, c. 25.

that no person was to keep an alehouse or tippling-house unless he first obtained the permission of the justices in open session, or of two of their number. The justices were to take bond and surety by recognisance from the licensees, and could try breaches of their conditions at Quarter Sessions.

In conformity with this Act rules were drawn up in the various counties, and regulations came into existence, some of which were afterwards embodied in Acts of Parliament.

In 1618 a form of recognisance containing the conditions in common use was published by Proclamation, and ordered to be adopted generally.

The form provided that the Licensee should not permit unlawful games, should close at nine on week-days and during Divine Service on Sundays, should keep a record of strangers staying more than one night, should use standard measures, and so on. Amongst conditions occasionally required was Sunday closing except to travellers. Next century, however, a simpler form of recognisance, dealing only with unlawful games and disorderly conduct, was deemed sufficient.

The proclamation of James I., above referred

to, also directed that licensing meetings should be held annually and that the licenses should be annual, so that the annual character of the license is almost coeval with the licensing system itself.

In 1607 an Act was passed imposing a fine upon any person who sold ale or beer to an unlicensed alehouse-keeper. 4 Jas. 1, c. 4.

Subsequent Acts during the same reign dealt with the habitually inebriate, and made drunkenness, hitherto punishable by the ecclesiastical authorities only, a civil offence. These Acts fell into disuse, but were not repealed until last century.

The habit of spirit drinking became very common in England in the end of the seventeenth century. The manufacture of spirits had been subject to a monopoly which was abolished, after which the trade developed rapidly. 9 Geo. 4, c. 61.

In 1700 the retail sale of spirits for consumption on the premises was brought under the control of the justices, but the Act had little effect, and the consumption of spirits steadily increased. 12 & 13 Will. 3, c. 11.

The amount of spirits distilled in England in 1684 was 527,000 gallons, in 1694 it was 948,000, in 1704 1,375,000, in 1714 it was 2,000,000

gallons, in 1724 3,520,000, and in 1734 4,947,000 gallons.

9 Geo. 2, c. 23.

The evil results became so apparent that in 1736 an Act was passed which aimed at the serious curtailment, if not practical suppression, of the trade. A license had to be obtained from the Excise at the cost of £50, and 20s. a gallon had to be paid on all spirits sold over and above the duties paid by the manufacturers.

The severity of this Act defeated its object. Licenses were not taken out, yet spirits were obtained as freely as ever. It was impossible to get evidence of infringement, officers were intimidated, informers murdered. Notwithstanding the Act, the consumption of spirits had risen in 1742 to 7,160,000 gallons.

16 Geo. 2, c. 8.

Government at last concluded that a regulated trade, subject to the control of the magistrates, would be better than smuggling, and the prohibitive duties were removed. The license duty was reduced from £50 to 20s., and the duty of 20s. per gallon on the spirits sold was repealed.

By subsequent Acts the retail license duty was somewhat increased, and various improvements effected in the law.

In 1753, the law of licensing was consolidated. Licenses were only to be granted at a general meeting of justices, held annually at times fixed in the Act. Thus statutory authority was definitely given to the long established practice of annual licensing. 26 Geo. 2, c. 31.

In 1792, it was enacted that the consent of the justices in Petty Sessions must be obtained to the transfer of a license. By the same Act the retail sale of wine for consumption on the premises, which had long been under control for revenue purposes, was brought under the control of the justices. 32 Geo. 3, c. 59.

Thus, at the beginning of the nineteenth century the condition of the licensing system was not unsatisfactory. Justices' licenses were not required for sale off the premises, but over the retail sale of all intoxicating liquors for consumption on the premises they had full control. Transfers required their consent, and they could, and often did, refuse renewals. Licenses were annual, and granted by the local justices at the annual licensing sessions. There was no appeal to Quarter Sessions. On the other hand there was great laxity in the matter of closing, no other

hours being enforced generally than those during divine service.

9 Geo. 4, c. 61. In 1828 an important Act of consolidation was passed, many of the provisions of which are still in force.

No one might sell by retail intoxicating liquors to be consumed on the premises without a license from the justices, which required to be renewed annually.

Rules were laid down with regard to the time and place of the annual licensing meeting, and with regard to notices and adjournments.

Special sessions were fixed for the authorisation of the transfer of licenses.

Justices interested in the trade or in the premises in question, were disqualified.

Applicants for new licenses must notify the overseers of the poor and the superintendent of police, and post notices on the church door.

By far the most important change was the granting of an appeal to Quarter Sessions against the refusal to grant, renew, or transfer a license. This has been repealed as far as the grant of a L.A. 1872. new license is concerned, but remains the law as regards renewal and transfer.

The licensing system was now in a fairly healthy condition, but unfortunately in 1830 what practically amounted to free trade in beer was introduced. 1 Will. 4, c. 64.

For the sale of beer and cider a justices' license was no longer required; any ratepayer might, on entering into a bond and paying two guineas, sell by retail for consumption either on or off.

The promoters of this Act probably hoped to displace spirits by beer, but the result was disastrous. Beerhouses sprang up in thousands, the consumption of beer increased enormously, that of spirits received no check.

In 1834 a restrictive Act was passed. The beer trade was divided into two, those selling for consumption off, and those selling for consumption on. Applicants for the former sort of license were not interfered with, applicants for the latter had to fulfil certain conditions. 4 & 5 Will. 4, c. 85.

By the same Act the justices received power to regulate the hours of opening and closing the beerhouses, and the right of entry was given to the police.

In 1840 a third Beerhouse Act was passed. It fixed the hours, and a minimum rateable value for 3 & 4 Vict., c. 61.

the house. The licensee was to be the real resident holder and occupier of the dwelling-house for which the license was sought.

23 Vict., c. 27. In 1860 an Act was passed permitting shopkeepers to take out licenses for the sale of wine not to be consumed on the premises. These licenses were not under the control of the justices, and are the foundation of what are called "grocers' licenses."

24 & 25 Vict., c. 21. In 1861 a further encroachment was made upon the power of the justices by an Act which permitted wholesale spirit-dealers to take out an additional excise license for the sale of spirits by retail, not to be consumed on the premises.

Thus whereas for centuries the policy of English liquor legislation had been to subject licenses to the control of the justices, in 1830 this policy was reversed, and for forty years the policy was all the other way. But the new policy did not succeed, and in 1869 the legislature returned to the earlier method.

32 & 33 Vict., c. 27. In that year the Wine and Beerhouse Act again brought the sale of beer, cider, and wine under the control of the justices. Important reservations were made in that the justices could not

refuse a license for the sale of beer, cider, or wine not to be drunk on the premises, nor refuse to renew a beerhouse license granted before 1869, except on one of four specified grounds which will be mentioned hereafter.

The Licensing Act, 1872, consolidated the law and made important amendments. L.A. 1872.

The closing hours were regulated, a limited discretion being allowed to justices outside the metropolis.

For certain offences a license was endorsed and on a third offence it lapsed, and the licensee was disqualified for five years.

Spirits might not be sold to any one under sixteen for consumption on the premises.

New licenses were made more difficult to obtain. The right of appeal from the licensing justices to Quarter Sessions against a refusal to grant a new public-house license, was taken away. Moreover, if the new license were granted it had still to go before a joint committee for confirmation.

Renewals were, on the other hand, made easier. It was provided that a licensee applying for renewal need not attend the licensing meeting

unless requested by the justices, and must have written notice of an intention to oppose the renewal.

L.A. 1874. In 1874 an amending Act substituted new closing regulations, introduced early closing, and laid down rules about the *bonâ fide* traveller. It also mitigated the severity of the penal clauses of the former Act.

43 Vict., c. 6. In 1880 and 1882 the discretionary powers of the justices were still further restored. They

45 & 46 Vict., c. 34. received free and unqualified discretion to refuse the grant of the three retail off beer licenses.

44 & 45 Vict., c. 61. In 1881 the Sunday Closing (Wales) Act was passed.

49 & 50 Vict., c. 56. In 1886 an Act was passed prohibiting the sale of intoxicating liquor to children under the age of thirteen for consumption on the premises, and

1 Edw. 7, c. 27. in 1901 an Act prohibiting the sale of any description of intoxicating liquor to any person under the age of fourteen, for consumption either on or off the premises.

L.A. 1902. The Licensing Act, 1902, is the latest of the statutes regulating the sale of intoxicating liquor.

It amends the laws as to drunkenness, giving a new power of apprehending, and punishing

severely any person found drunk when in charge of a child.

If a person is drunk on licensed premises the burden of proof that reasonable steps were taken to prevent drunkenness lies with the licensee.

Habitual drunkenness is made a ground for a separation order being granted to either husband or wife of an inebriate.

The sale of liquor is prohibited to habitual drunkards as defined by the Inebriates Act, 1898.

Grocers' licenses are brought under the full discretion of the justices, except that the present holders of such licenses do not come under the operation of the Act.

No clerk to licensing justices may act as solicitor or agent in any licensing matter in his own district.

An extremely important part of the Act deals with clubs. Of late many clubs have sprung up merely for the sake of enabling members to buy intoxicants more freely than they could buy them in a licensed house. By stringent rules of registration the Act aims at the abolition of these clubs without interfering with respectable ones.

This Act has now (January, 1904) been in

operation for twelve months and has given satisfaction.

The provision with regard to the sale of liquor to habitual inebriates has not been, perhaps, of very great value. In the Metropolis and in cities of any size it has been practically a dead letter. This was to be expected, and is probably inevitable. In country districts and in small towns it has been of use.

The provisions with regard to the registration of clubs have been most successful and have done much to put an end to that class of club which existed mainly for the supply of exciseable liquor and which was scarcely to be distinguished from a shebeen.

CHAPTER III

THE LAW OF LICENSING IN ENGLAND

SUBJECT to certain exceptions, no intoxicating liquor may be sold in England without a license. L.A. 1872.

The exceptions are as under :—

(1) The Universities of Oxford and Cambridge.

(2) The Mayor and Burgesses of St. Albans.

(3) The Master, Wardens, freemen, and Commonalty of the Vintners of the City of London.

The above mentioned have privileges arising out of old charters.

(4) Medical practitioners or chemists may use spirits in making up medicine.

(5) *Bonâ fide* travellers for licensed persons need not be licensed.

(6) The sale of spirits in canteens is under special Acts.

L.A. 1872. The term "intoxicating liquor" embraces spirits, wine, beer, porter, cider, perry, sweets, or other spirituous liquor.

When spirits, wine, and sweets are sold in quantities of less than two gallons, or beer and cider in quantities of less than four and a half gallons, the sale is said to be retail ; otherwise it is wholesale.

A license lasts for one year and no longer. The actual license for the sale of intoxicants is granted by the Commissioners of Inland Revenue. In some cases only the payment of a duty is required, but in most cases a certificate must be produced from the justices authorising the applicant to apply for the license. In the former case the license is generally called an Excise License ; in the latter case, a Justices' License. The license authorising sale is, however, in every case obtained from the Commissioners of Inland Revenue. The part played by the justices is purely one of control, and only a small fee is paid for their certificate.

There are twenty-five different licenses for the

sale of intoxicating liquor granted by the Excise as follows, viz. :—

Without Justices' Certificate.

1. Dealers' Licenses.

(a) *Wholesale.*

(1) Beer license.
(2) Spirits license.
(3) Wine license.
(4) Sweets or made wine license.

(b) *Additional Retail.*

(5) Spirit-dealers' off spirit license.
(6) do. off liqueur license.
(7) Wine-dealers' off wine license.

2. Retailers' Licenses.

(8) Passenger steamer license.
(9) Theatre license.

With Justices' Certificate.

1. Dealers' Licenses.

(10) Dealers' additional retail beer off-license.

2. Retailers' Licenses.

(a) *On-Licenses.*

(11) Beer-house license.
(12) Additional beer or wine license.
(13) Cider and perry license.
(14) Public-house license.
(15) Sweets or made wine license.
(16) Refreshment room wine license.

(b) *Off-Licenses.*

(17) Table beer license.
(18) Beer license.
(19) Shopkeepers' wine license.
(20) do. retail spirit or liqueur license.
(21) Cider license.
(22) Sweets or made wine license.

In addition to the foregoing regular licenses, certain licenses of modified form are granted, viz. :—

(23) Six-day license.
(24) Early-closing license.
(25) Occasional license.

Licensing Authority.

Justices' licenses are granted at the annual licensing meeting held for that purpose by

County Justices in every Petty Sessional division, and by Borough Justices in every borough having a separate commission of the peace, or at its adjournment.

All justices authorised to act for the division or place in which the meeting is held, may act, subject to certain disqualifications. Justices interested in the liquor trade in the district, or districts adjoining that in which they usually act, are disqualified, and also justices interested in profits arising out of the premises in question. L.A. 1872. L.A. 1902.

But a justice is not disqualified by reason only of his being interested in a railway company which is a retailer of intoxicating liquor.

No clerk to licensing justices may, by himself, his partner, or clerk, act as solicitor or agent for any person, in any licensing matter in his own district. Ibid.

The annual licensing meeting is held within the first fourteen days of February, and every adjournment thereof must be held within one month of the date of the annual meeting. Ibid.

Notices of the meeting must be served on the justices themselves, upon the licensees, upon any one who has given notice of his intention to apply

for a license, and must be affixed on the door of the churches, or chapels, or other conspicuous places within the district. In a Petty Sessional division this would be in all parishes.

1. New Licenses.

Licenses for the sale of liquor to be consumed on premises not hitherto licensed, have to be granted in the first instance by the justices, and afterwards approved by a confirming body.

(1) ORIGINAL HEARING.

(a) *Authority.*

L.A. 1828. In counties the licenses are granted in the first instance by the whole of the qualified justices acting in the Petty Sessional division.

L.A. 1872. In boroughs where there are ten justices, new licenses are granted by a committee of not less than three nor more than seven, appointed by them from among themselves, called the Borough Licensing Committee.

In boroughs with less than ten justices, new licenses are granted by two or more qualified borough justices.

(b) *Qualification of Premises.*

Houses licensed before 1872 do not generally require a property qualification, but otherwise, except in the case of railway refreshment rooms, the premises must be of a certain annual value. The value varies from £50 for a fully licensed house in London, to £12 for an on-beer license in a town of less than 2,500 inhabitants. But there are no statutory requirements for premises used for retailing spirits, wine, or sweets, not to be consumed on the premises. L.A. 1872

(c) *Notice.*

The applicant for a new license must give twenty-one days' notice in writing to the parish overseer, and the superintendent of police, and must advertise his intention in a local newspaper. L.A. 1872.

Within twenty-eight days before his application he must affix a notice on the door of the house, and on the door of church, or chapel, or other conspicuous place within the district, and maintain such notice for two consecutive Sundays during such period. L.A. 1869.

A plan of the premises in respect of which the L.A. 1902.

application is made must be deposited with the clerk to the licensing justices.

(d) *Opposition.*

Reg. *v.* Sharman, 1 Q.B. 578 (1898).

The application for a new license may be opposed by any person, upon any reasonable ground; and the justices are bound to hear reasonable evidence, but may, at their option, refuse to hear statements not made on oath.

Memorials or petitions may be received for or against the application, and notice of opposition need not be given.

(e) *Discretion of Justices.*

The justices have full power to grant or refuse a new license, and against their refusal there is no appeal.

(2) CONFIRMATION.

(a) *Authority.*

L.A. 1872.

In counties the grant of a new license must be confirmed by a standing committee of the county justices called the "County Licensing Committee," which consists of not less than three, nor more than twelve members, annually appointed by the

justices assembled in Quarter Sessions from among the justices of the county.

In boroughs having ten or more justices, the grant must be confirmed by the whole body.

In boroughs having less than ten justices, the confirming authority is a joint committee, consisting of three county and three borough justices.

A justices' license to sell intoxicating liquor for consumption off the premises requires similar confirmation. L.A. 1902.

(b) *Procedure.*

The confirming authority must meet within a reasonable time after the hearing of the applications for new licenses, but application for the confirmation of the grant of a license shall not be heard until twenty-one days at least have expired since the date of the grant of the license. Ibid.

If the grant is opposed the whole case for and against the license is heard by the confirming authority, but no one may be heard in opposition to a confirmation unless he has appeared before the licensing justices and opposed the original grant. The confirming authority may L.A. 1872.

award such costs as they deem just to the successful party.

(c) *Discretion of Justices.*

The discretion of the confirming authority to refuse to confirm the grant of a new license is absolute, and may be exercised even though the confirmation be not opposed.

2. Renewals.

Strictly speaking a license is not renewed. It is granted for one year only, and a fresh license is taken out annually. But the justices' certificate authorising the Excise license for one year has to be renewed before the fresh license can be issued.

(1) *Procedure.*

The applicant for the renewal of a justices' certificate is in a better position than the applicant for a new license.

He need not give previous notice, nor attend the meeting in person unless specially requested. He must receive seven days' notice of objection, and evidence with respect to renewal must be given on oath.

(2) *Discretion of Justices.*

The justices have (subject to appeal to Quarter Sessions) full discretion to grant or refuse renewal except with regard to the renewal of two classes of licenses :—

(a) *Ante*-1869 *Beerhouses.*

The renewal of these can only be refused on one of four grounds :— L.A. 1869.

(1) Failure by applicant to satisfy as to character.

(2) That the house or adjacent house is disorderly.

(3) That the applicant has forfeited a license through misconduct.

(4) That applicant or house is not duly qualified.

(b) "*Grocers'*" *Licenses.*

Where these were in force on June 25, 1902, the person who held such license on that date may claim renewal, and it cannot be refused, except on one of the grounds above mentioned, or one of three others mentioned in the Act. L.A. 1902.

Notice of opposition must be given in the

above cases, and objection made on oath in open Court.

3. Transfers.

L.A. 1828. Justices' certificates may be transferred from one person to another, and sometimes from one house to another. Transfers are granted at one of the special sessions of the justices, of which not less than four nor more than eight are held annually.

(1) *Change of Person.*

(*a*) A licensee wishing to remove may transfer to a new comer.

(*b*) When a licensee dies, or is ill, or bankrupt, his successors or assigns, or the assignee in bankruptcy may obtain the license.

(*c*) If the licensee removes, or being about to remove, wilfully neglects to apply for the renewal of the license, a new occupier may obtain it.

L.A. 1874. (*a*) If the licensee has been disqualified by a first conviction, the owner of the house may obtain the grant.

(2) *Change of Premises.*

L.A. 1828. If a licensed house "shall be or be about to be pulled down or occupied under the provisions

of any Act" . . . "or shall be, by fire, tempest, or other unforeseen and unavoidable calamity, rendered unfit for the reception of travellers, and for the other legal purposes of an inn," the justices may grant a transfer "to some other fit and convenient house within the district."

The law and procedure with regard to transfers have been amended by the Licensing Act, 1902.

It enacts that in the case of application for transfer, the person holding the license, and the person to whom it is about to be transferred, shall attend at the special sessions at which the application is heard, and the agreement under which it is to be transferred and held shall be produced to the justices. L.A. 1902.

For the purpose of preventing repeated applications the justices may make regulations determining the time which must elapse after the hearing of one application, before another may be made.

Fourteen days' notice of intention to transfer must be given in all cases.

4. Removals.

Licences may be removed from one house to L.A. 1872.

another within the same district, or to another district within the county.

The order for removal is made under the same conditions as to notice and confirmation as the grant of a new license.

5. Appeal to Quarter Sessions.

L.A. 1828. If the justices refuse a renewal or transfer, the applicant or the owner or mortgagee of the property may appeal to Quarter Sessions. In all cases, even in boroughs, the appeal must be to the Quarter Sessions for the County.

L.A. 1902. Appeal may also be made if the justices, on application for the renewal of a license, have demanded structural alterations.

L.A. 1828. From Quarter Sessions there is no further appeal, but there may be a reference to the High Court on a point of law.

6. Reference to High Court.

(1) *On Case Stated.*

Ibid. Quarter Sessions may, if their order in respect of a license be questioned on the ground that it is erroneous in point of law, state a special case for the opinion of the High Court, which

will decide the point of law, and, if necessary, remit the matter to the justices to be dealt with, in accordance with their decision.

(2) *By Writ of Mandamus.*

If it be contended that the justices have not given a proper hearing to an application, or were disqualified from adjudication, appeal may be made to the High Court, which may, by writ of mandamus, order them to hold an adjourned meeting and to hear and determine the matter according to law. Reg. *v.* Howard, 23 Q.B.D. 1889.

Proceedings by other writs are sometimes resorted to.

7. Forfeiture.

A license may become forfeited during its currency if the holder is convicted of certain offences.

Where the forfeiture results from a first conviction for certain specified offences, a transfer may be applied for by the owner. L.A. 1874.

8. Clubs.

All clubs where intoxicants are sold must be registered. L.A. 1902.

The register is kept by the clerk to the justices, and must contain full information about the clubs, such as number of members, hours of opening and closing, and the like.

Penalties are enforced against officers and members of unregistered clubs supplying intoxicants.

Only members can obtain intoxicants at a club for consumption off the premises.

Clubs may be struck off the register for various reasons.

Any justice may grant a warrant to a constable to search a club.

Heavy penalties are imposed on club secretaries for omitting to make returns required by the Act, or for furnishing false ones.

CHAPTER IV

MAGISTERIAL DISCRETION

IN early days magistrates might grant licenses or close houses as they thought convenient.

The practice of closing houses fell into disuse, and the granting of licenses annually obtained statutory authority.

In 1828 an appeal was granted to Quarter Sessions against magisterial refusal to grant, renew, or transfer, a license.

In 1872 this was repealed as far as the granting of a new license was concerned, but remained the law with regard to renewal or transfer.

In 1830 beerhouse licenses were taken out of the hands of the magistrates. In 1869 they were restored to the magistrates with reservations as regarded ante-1869 beerhouses.

In 1872 a consolidating Act gave certain

privileges of procedure to licensees applying for renewals.

This in-and-out legislation provided room for difference of opinion between those who desired to limit the power of the magistrates, and those who desired to leave it unimpaired as to the interpretation of the various Acts. After a series of important cases, carried in some instances to the House of Lords, the discretion of the magistrates has been fully established. The cases in connection with which this has been brought about will be best considered consecutively.

(1) The privileges granted by the Licensing Act, 1869, to ante-1869 beerhouses, do not extend to new licenses applied for under the same Act.

Reg. *v.* Lancashire J.J.

In Reg. *v.* Lancashire Justices (1870), 6 Q.B.D., Tyson made application under L. A. 1869, for a certificate to enable him to obtain a license to sell beer to be consumed on the premises, in respect of a house not previously licensed. The applicant and premises were satisfactory, but the justices refused the license because they thought the house was not required.

Tyson contended that the justices were limited to the four grounds of objection specified in the Act, and appealed to Quarter Sessions, which supported the justices, but stated a case for Queen's Bench on the point of law. The Court of Queen's Bench supported the justices in their refusal to grant the license.

Lush, J., said that personal fitness was one element, and the fitness of the house another, but other considerations might influence the decision. There was nothing in the Act to suggest what these considerations might, or might not, be, nothing giving an applicant a right to demand a license, or importing an obligation on the part of the justices to grant it. The considerations would include the nature of the locality, the population, the number of houses already licensed, and all circumstances bearing upon the question whether in the interest of the public an additional license should be granted.

The object of the Legislature evidently was to put future beerhouses on the same footing as ordinary licenses. The discretion of the justices was unlimited.

(2) The privileges of ante-1869 beerhouses do not extend to general licenses.

Smith *v.* Hereford J.J.

In Smith *v.* Hereford Justices (1878), 39 L.T. 604, Smith applied for a renewal of the license for his inn The Rising Sun, and his application was refused, the inn being thought unnecessary.

Smith contended that the justices were precluded from considering the requirements of the neighbourhood in connection with the renewal of a license, the four grounds upon which only renewal could be refused being laid down in the Act.

Quarter Sessions stated a case for Queen's Bench upon the point of law, and the decision of the justices was upheld.

Cockburn, L.C.J., said that if it had been the certificate for a beerhouse licensed on May 1, 1869, the justices must have confined their refusal to the grounds specified. But it was a general license, and the qualifications of the Act of 1869 did not apply. The justices had the same discretion to refuse a renewal as to refuse a new license.

(3) The justices have free and unqualified

discretion with regard to the renewal of an off-beer license.

In Reg. *v.* Kay (1883), 10 Q.B.D., a grocer who had been the holder of an off-beer license for several years was refused renewal, on the ground that having regard to the requirements of the neighbourhood it was not expedient that the certificate should be granted. Reg. *v.* Kay.

It was contended that though the justices might on these grounds refuse a new license for the sale of beer to be consumed off the premises, they could not refuse a renewal to premises already licensed.

It was pointed out on behalf of the licensee that the L. A. 1872 had made a distinction between a new license and an old. For this reason it was contended that the unqualified discretion which the justices had, under the Beer Dealer's Retail Licenses (Amendment) Act, 1882, "to refuse a certificate for any license for sale of beer by retail, to be consumed off the premises on any grounds appearing to them sufficient," did not apply to an application for a certificate by way of renewal.

The Court emphatically affirmed the right of the justices to refuse the certificate.

Field, J., said that the Legislature recognised no vested right in the holder of a license. It relieved him from giving certain notices and complying with certain formalities, when he applied annually for his license after the first time. It said, You need not publish certain notices, and so on. It did not treat the interest as a vested one in any way. Every license was a new license, although granted to a man who had one before. The Legislature meant to vest absolute discretion in the justices.

Stephen, J., said it was clear that the Act meant to give the justices absolute power. They could refuse or confirm the certificates on any ground they liked, and whether the application was for a new certificate or made for the twentieth time, and whether the applicant was of unblemished character, or the reverse.

The power was not only given, but was given in vigorous language. The justices were "at liberty in their full and unqualified discretion . . . to refuse a certificate for any license for the sale of beer by retail to be consumed off the premises, on any grounds appearing to them sufficient."

(4) The justices have free and unqualified discretion with regard to the renewal of a full public-house license.

Sharp *v.* Wakefield.

In Sharp *v.* Wakefield, H.L. 1891, A.C. 173, it appeared that Ridding, the landlord of the Low Bridge Inn, applied in 1887 for the renewal of his license for the sale of intoxicating liquors under the Licensing Acts 1828, 1872, and 1874. The justices refused the application on the ground of remoteness of the house from police supervision, and the character and necessities of the neighbourhood.

Sharp, the owner of the house, carried the case to the House of Lords, which affirmed the decision of the Court of Appeal upholding the justices in their refusal.

It was contended on behalf of the appellant that the Statutes of 1872 and 1874 had differentiated between an original grant and a renewal, and that the justices were bound to grant the latter in respect of premises already licensed, unless the objections were as to the personal fitness of the applicant, or the suitability of the premises for use as an inn.

Lord Halsbury, L.C., said the judgment must

be affirmed. By the express language of the Statute, the grant of a license was expressly within the discretion of the magistrates. The first Statute to which one need go back gave discretion, and no Act passed since had withdrawn it. The Acts of 1872 and 1874, upon which reliance was placed, did not limit the discretion, but enacted certain new procedure which was perfectly consistent with the preservation intact of the discretion given to the magistrates.

Lord Herschell said the Statute made no distinction between this case and the original application. The word "renewal" was never mentioned, and it was expressly provided that every license granted under the authority of the Act should last for one year, and no longer.

Lord Macnaghten said the Act of 1828 conferred upon the licensing justices the same discretion in the case of an application for what was termed a renewal as in the case of a person applying for a license for the first time, and that although there had been an alteration in the procedure in favour of applicants for renewal licenses, there was nothing in the subsequent legislation to do away with, or impair, or fetter that discretion.

(5) The justices must exercise their discretion judicially—that is, in manner prescribed by Statute.

In Reg. *v.* Howard and others (1889), 23 Q.B.D., a publican had applied at the general licensing sessions for a renewal of his license. No notice of an intention to oppose had been given him, but, after some conversation with the police, the justices refused the application. Reg. v. Howard.

Now Section 42 of the Licensing Act, 1872, enacts that the justices shall not entertain any objection to the renewal of a license unless written notice has been served on the holder not less than seven days before the meeting. Provided that if an objection is made without notice the justices may adjourn the granting of the license to such future day as will comply with the Statute.

The publican had neither received notice of opposition nor had the meeting been adjourned, and relying upon this Section, he applied for a mandamus.

A mandamus was issued commanding the justices to hold an adjournment and hear and determine the merits of the application.

The justices obeyed the mandamus and then returned that they had held the adjourned meeting, heard the application in due form, and refused it.

Resting on the reply to the return, a point of law was raised as to whether they were not bound to grant the renewal at the adjourned meeting, but it was held that the reply to the mandamus was sufficient, the justices having jurisdiction to entertain the objection and refuse the application.

Raven *v.* Southampton J.J. (Dec., 1903).

In Raven *v.* Southampton Justices a case was stated by the Court of Quarter Sessions for the borough of Southampton, raising the question whether there was any evidence to justify Quarter Sessions in refusing to renew the license of the George and Henry public-house.

The only ground of objection served on the respondents was that the license was not required. At the hearing the Surveyor produced an ordnance map with houses marked and stated the number within a given radius, which was excessive. A detective then gave evidence that the district was troublesome to the police. No further evidence was adduced.

It was contended that though the map showed

that there were too many houses, there was no evidence that the George and Henry was not required. The respondents pleaded that although the map did not differentiate, they knew the district and had differentiated.

The Court was divided.

Mr. Justice Kennedy thought that the decision in Sharp *v.* Wakefield gave the justices the fullest power. If there was evidence before Quarter Sessions to support their finding the Court could not over-rule their decision.

Mr. Justice Lawrance would be sorry to say one word to tie the hands of justices who were interested in the good work of diminishing the number of public-houses, but they must act upon evidence. He thought they had acted without direct evidence as to the George and Henry. They did not go into the merits.

The Lord Chief Justice said he did not differ in substance from the view of the law which Mr. Justice Kennedy had expressed. It was only with reference to this particular case. The justices were quite entitled to refuse a license on the ground that it was not required. But did they in this case act as a Court on evidence that they

could lawfully receive? All the evidence in the case was the map. It would be a serious thing to rule that justices might act upon anything that was not evidence. There was before Quarter Sessions no evidence upon which they could come to the conclusion that this house was not required.

(6) A licensing meeting is not a Court, a refusal of the justices to renew a license is not "a conviction or order," and an appeal to Quarter Sessions against a refusal to renew is not ruled as to costs by S. 31 of the Summary Jurisdiction Act, 1879.

Boulter *v.* Kent J.J.

In Boulter *v.* Kent Justices, H.L. (1897), A.C. 556, Boulter had successfully opposed the renewal of a license before the justices. The case was appealed to Quarter Sessions, but Boulter did not appear and the license was renewed.

Quarter Sessions further ordered that Boulter should pay costs, making the order under the Summary Jurisdiction Act, 1879, Section 31, which is as follows :—

"Where any person is authorised by the Act . . . to appeal from the conviction of a Court of Summary Jurisdiction to a Court of General

or Quarter Sessions, he may appeal to such Court, subject to . . . the Court of Appeal may also make such order as to costs to be paid by either party as the Court may think fit."

The case was carried to the House of Lords, who decided, reversing the decision of the Court of Appeal, that Quarter Sessions had no power to make the order for costs against the objector.

Lord Halsbury, L.C., said the licensing justices were not a Court of Summary Jurisdiction, they were not a Court at all, and Quarter Sessions had no power to order an objector to pay costs.

Lord Herschell said the question was not one *inter partes* at all.

The justices had absolute discretion to determine in the interest of the public whether a license ought to be granted, and every member of the public might object to the grant on public grounds, apart from any individual right or interest of his own.

The applicant sought a privilege. Any member of the public might inform the minds of the Court, to enable it rightly to exercise its discretion, whether to grant that privilege or not.

A decision that a license should not be granted

was not a determination in favour of the objector, but a decision that it would not be for the public benefit to grant the license.

(7) The justices need not wait for others to object to renewals. They may themselves become the objectors and are not thereby disabled from adjudicating.

Reg. *v.* Farnham J.J.

In the case of Rex *v.* Howard and others, licensing justices of Farnham (1902), vol. 2, K.B., it appeared that the attention of the justices had been called to the large number of licensed houses in their district. They appointed a committee to investigate, and eventually the Chairman of the justices at the annual licensing meeting, acting on behalf of the justices, objected to the renewal of all the licenses in the district. He stated that the justices thus raised objections to all the renewals "in order that every one of the licensees might have an equal opportunity of giving evidence, and the justices might thus be enabled to decide with justice and fairness."

The meeting was then adjourned, and the clerk to the justices, by their direction, served formal notice in each case requiring the licensees to

attend in person at the adjourned meeting and stating the grounds of objection. At the adjourned meeting evidence was taken on oath in support of the objections, and the justices ultimately decided against the renewal of nine of the licenses.

Action was taken in the High Court subsequently and a mandamus sought and obtained on the following grounds :—

(*a*) That justices could not themselves object to renewals.

(*b*) That if they did they must not adjudicate on licenses to which they had objected.

(*c*) That justices might not take steps beforehand to obtain information respecting houses under their jurisdiction.

A Divisional Court unanimously sustained the justices and discharged the rule with costs against the applicants.

The cases were then carried to the Court of Appeal, and the decision was again in favour of the justices, who were declared to have "acted with perfect fairness" and to have "proceeded from first to last with commendable care."

The Master of the Rolls said it was contended

that the justices were incapacitated from dealing with the question of renewal, as they were at once parties and judges, and must be deemed in law biased on the ground that they had predetermined to refuse the renewal of some of the licenses, and had already inquired into the cases.

But Boulter *v.* Kent Justices had made it clear that in the granting or refusing of renewals the justices did not sit as a Court and that the transaction was not a lis to which they were parties. The justices were exercising their discretionary jurisdiction as to how many public-houses they would permit in a district, and had absolute discretion to determine whether a license should be granted. The standard, therefore, to be applied in determining whether justices had incapacitated themselves from dealing with the renewal of licenses was not in any sense that applicable to judges dealing with litigation. Provided the objection was properly notified it was immaterial by whom it was made.

The key to the position appeared to be that the justices in dealing with licenses were not a judicial body, but were deliberately appointed because from their circumstances they were likely

to have local knowledge; and it could not have been the intention of the Legislature that they should divest themselves of such knowledge in dealing with licenses. It would be a public misfortune if they were bound to determine the question merely on materials supplied by an objector and had to sit in silence, though they knew there were good grounds which ought to be inquired into before the matter was decided. Yet if they were debarred from making an objection or causing one to be made, these facts could never be inquired into and the license would have to be disposed of without the necessary investigation. That which had been done by the justices had been honestly done, and they were not thereby debarred from sitting and deciding upon the question of renewals.

Lord Justice Mathew said objections could be made from the Bench in open Court and afterwards investigated, proper notice to the applicant being given. The duty of the justices was to arbitrate impartially, not between themselves and the licensee, but between that person and the public.

Lord Justice Cozens-Hardy said the justices

had absolute discretion to grant or refuse applications for new licenses and applications for the renewal of old licenses. Their functions in this matter were administrative rather than judicial, and they were entitled to rely upon their general knowledge of the needs of the locality as well as upon any evidence that might be adduced.

In making this preliminary investigation, and considering whether the number of licensed houses was in excess of the needs of the district, the justices were simply preparing to discharge the important duties, mainly administrative, imposed on them by the Act of 1828. They were not adjudicating upon any rights. They were not prosecutors. They were only determining whether in the public interest a lucrative privilege should or should not be conferred.

The justices, therefore, were not disqualified from sitting and deciding upon the applications for renewal, and the judgment of the Divisional Court in their favour was affirmed.

The effect of these decisions has been to greatly strengthen the hands of the licensing justices.

With certain exceptions, of which the ante-1869 beerhouse and the ante-1902 grocers' licenses

are the most important, the control of the retail sale of intoxicating liquors is now wholly in the hands of the justices. The justices are now established as the custodians of the public welfare so far as licensing is concerned.

It is satisfactory to know that, now that the legal aspect of the case is quite clear, the justices in many parts of England are recognising the importance of their trusteeship and are taking a lively interest in the wise administration of the licensing laws. Had they always acted thus they might have been subjected to less criticism, and perhaps the law also would have been subjected to less criticism.

The cases detailed in this chapter show that the law has given immense power to the magistrates, and make it clear that they could, acting on their own initiative, without fresh legislation and without oppression, so adjust matters that licenses would at least bear some reasonable proportion to population.

CHAPTER V

COMPENSATION TO PUBLICANS

WHENEVER anything like a substantial reduction of licenses has been proposed in England, the question of the legal or moral right of publicans to be compensated for the loss of their monopoly has been discussed.

The question can only arise in connection with the renewal of licenses. Were the Legislature to decide that no new licenses should be granted, there could be no serious claim for compensation, even although men had built houses, as they often have built them, in the hope of obtaining licenses. Formerly this was no bad speculation, but for some years the justices have been slow to grant new licenses, and men who have built new houses specially intended for the sale of liquor have been aware of the risk they ran.

The question of renewal may seem to stand upon a different footing. For a long time it was the habit for the justices, having once granted a license, to renew it as matter of course unless misconduct was alleged against the licensee. Hence some have fancied that so long as a publican conducted his house properly he had a right to renewal.

In licensing handbooks the phrase "renewal as of right" is sometimes used. On examining the context it appears that the phrase only means that, if no one objects, the publican gets his license. Seeing that any member of the public may object, or that the justices may themselves object, or may instruct their clerk to object to the renewal of any or all of the licenses, the word "right" has no significance. Naturally, if no objection is taken, the publican obtains his renewal.

The idea that there was something sacred about an application for renewal was fostered by the difference in procedure where renewals were concerned. This has been already referred to. An applicant for a new license must give twenty-one days' notice of his intention, advertising it in prescribed form. The applicant for renewal gives

no notice of his intention, but on the contrary receives notice of the time and place of Brewster Sessions, lest he may inadvertently fail to apply. Generally speaking, the applicant for a new license must apply in person, for the justices must judge of his fitness, but an applicant for renewal can apply through an agent. An application for a new license is dealt with in summary fashion, but if a renewal is to be opposed, the holder of the license must have seven days' notice, the grounds of opposition must be stated in general terms, and evidence against renewal must be taken on oath. Finally, the applicant for a new license has no right of appeal should his application be refused, whereas the applicant for renewal has an appeal to Quarter Sessions, and may even have a case stated for the judgment of the higher courts. It is this difference in procedure that has led the trade to believe that a license once granted would not be lightly withdrawn. And, indeed, this much may be conceded; but whether the withdrawal, when it does take place, will support a claim to compensation, is another question.

The matter is one of high importance. The valuation of public-house property throughout the

United Kingdom runs into huge figures, and if licenses have to be bought up, any substantial reduction of numbers becomes almost impossible. Nevertheless, if publicans are either legally or morally entitled to compensation, the difficulty must be faced. Let us see how the matter stands.

Broadly speaking, two classes of licenses come before the justices annually for renewal. There are in England and Wales about 32,000 beer-houses which were in existence before May 1, 1869. In the case of these it is provided by Statute that the justices can refuse renewal only on certain grounds. It is to be remembered that before 1869 the magistrates had no power at all with regard to these licenses, which were wholly in the hands of the Excise. The Act of 1869 did not, therefore, give privileges to these houses, but actually curtailed their privileges. If now the Legislature went a step farther and placed the ante-1869 beerhouses upon the same footing as other licensed houses, it would be acting entirely within its rights. Nor would it seem to be a very reasonable contention that, because houses have enjoyed greater privileges than their neighbours for a time, they should be compensated when they

are put upon the same level. It will probably be argued, however, that a status has been created by Act of Parliament, and that money has been invested in reliance on this status. Should this argument prevail, and special consideration be shown, the matter may possibly be settled by giving to the holders of ante-1869 beerhouse licenses the same life privilege that has been given by the Act of 1902 to the holders of shopkeepers' licenses.

The other class of license, the ordinary public-house, can claim no special status. The series of decisions already quoted make it clear that the renewal or non-renewal of a public-house license depends upon the justices, in licensing and quarter sessions, who, so long as they act judicially, have absolute discretion. If renewal be refused by the licensing justices the applicant has no legal claim. He may appeal to Quarter Sessions. If he is refused there it is final. A license is a privilege granted in the public interest for one year and no longer. Whether, therefore, the renewal be refused by the licensing justices acting on their own initiative, or on the initiative of one of the public, or on the initiative of the Legislature, the effect is

the same. No claim for compensation can be legally supported. Neither by Statute nor by prescription has a public-house licensee any legal estate in the license beyond the year for which it is granted.

But although the legal aspect of the case is incontrovertible, the moral aspect may not be quite so clear. Though it be true that the legal estate of a licensee is but for a year, may not the fact that the license has been renewed continuously create an expectation that it will continue? Has not the publican invested his capital upon this supposition, and arranged his plan of life upon the strength of it, and is it fair to defeat expectations thus formed, without adequate compensation?

This argument is specious, but does not rest upon a solid basis.

The struggling publican who has thus ordered his life and invested his capital is now somewhat rare. There are still a certain number of houses which are owned by their landlords. They are, perhaps, in a majority of cases houses of a superior class, and would probably be the last to be touched by the hand of the reformer. But gene-

rally speaking, the publican is merely the servant of the brewery or distillery company by whom the house is really owned. He may be dismissed at short notice, and is frequently treated by his present owners with less consideration than the Legislature or the justices are ever likely to show.

The financial loss, if loss there were, inflicted by the closing of public-houses, would be distributed over a large number of shareholders, none of whom would probably be seriously inconvenienced. But it is by no means certain that there would be any loss to brewery or distillery companies even were half the public-houses in England closed. Drinking would be reduced materially, but certainly not to one half, whilst the expense to the company in rent and management would be halved. The profits might, therefore, remain about the same.

Again, is there any proof that licensees have invested capital in public-houses under any misapprehension. The position with regard to the renewal of licenses has long been known to the legal advisers of the trade. The Acts of Parliament are sufficiently clear. The cases which we have mentioned have made the law clear to the

justices, and to the public generally, but the legal advisers of the trade were never under any misapprehension. When the important case of Sharp *v.* Wakefield had been decided by the Court of Appeal, grave anxiety was expressed by a section of the liquor trade that the case should go no farther, in order that the question at issue might still appear to the public to be open to doubt. Other counsels, however, prevailed, and the case went before the House of Lords with the result noted.

Some years before this case was decided a licensed victualler's handbook said :—

"For some time back an idea seems to have prevailed that innkeepers and other holders of licenses for the sale of intoxicating drinks have a sort of vested interest in their licenses, and are entitled to call for the perpetual renewal thereof as of right, so long as they are not guilty of any personal misconduct. The idea has only sprung up of late years. . . . No decision has ever been given to this effect. Indeed, such decisions as have been given by the Superior Courts have all been the other way." ("The Legal Status of Licensed Victuallers," Hindle, 1884.)

The following extracts from a letter written to the *Morning Advertiser*, September 5, 1883, by Mr. Thomas Nash, at one time counsel to the Licensed Victuallers' Association, are suggestive. Referring to the case of Reg. *v.* Kay, quoted in the last chapter, he says :—

"A still more unfortunate result of the Darwen case was that it promulgated and divulged what had hitherto been, more or less, a professional secret, viz., that, subject to appeal, the licensing magistrates can refuse to renew the license of any and every holder of an on-license.

"I am sorry to say, having looked into this question most exhaustively, and compared notes with many of my brethren well versed in these matters, that there cannot be the smallest doubt that in the strict sense no such thing as a vested interest exists, and that, subject to appeal, the magistrates can refuse to renew the license of the largest, most useful, and best conducted hotel in England. I daresay that this will stagger many owners, but it is high time that the trade fully realised their position, and did not remain an instant in a state of false security."

Seeing that these quotations are now twenty

years old, it would be absurd to contend that the trade has invested its money under any misapprehension.

It follows that the sums which have been paid for licensed houses have been paid by men who had their eyes open, and the figures, large though they may be, do not represent the value of the property calculated as a permanent investment, but the value of the chance that the license will not be interfered with. Were the Legislature now to declare that licenses were of the nature of freeholds, it is probable that the property would increase in value.

It is incorrect, therefore, to speak of public-house owners as men who have invested their money on the supposition that they would not be interfered with. They have invested their money, knowing that they might be interfered with, but willing to take their chance. The sum paid is not the entire value of the property, but the value of the probability that the license will not be disturbed by the hand of the reformer.

Moreover, apart from the legal aspect of the case, the mere course of events should have taught investors in public-house property that

no question of compensation was likely to be entertained.

The hours of sale have been considerably shortened by Parliament, yet no compensation has been paid, and Sunday closing has been introduced in Scotland, Ireland, and Wales, without compensation.

40 & 41 Vict. c. 4 established for beerhouses in Ireland a rating qualification which did not previously exist, and hundreds of beerhouses, unable to comply with the qualification, lost their license. No compensation was paid.

45 & 46 Vict. c. 34 gave the licensing justices in England and Ireland power to refuse to grant or to renew licenses for the sale of beer for consumption off the premises. Hundreds of men lost their licenses, yet no compensation was given.

During the last thirty years many renewals have been refused because the houses were not required, yet compensation has not been paid.

Indeed, perhaps the most noteworthy fact is, that compensation has never even been asked for. Many appeals have been made to Quarter Sessions and to the Higher Courts against magisterial

decisions, but in no case has any demand for pecuniary compensation been made.

In the face of facts like these, it is absurd for any one to pretend that he invested in public-house property without entire knowledge of the risk that he ran. So well indeed is the risk understood that it is insured against by prudent owners of licensed property.

Amongst arguments brought forward by owners of licensed property in favour of their claim to compensation, are the following :—

(1) The Inland Revenue levy death duties on the value of licensed houses, and apparently therefore assume that the licenses will be renewed.

But this argument is not of much weight. The Inland Revenue levy death duties upon the market value of the deceased's property. They tax the state of affairs as it then exists, whether it be public-house property or Stock Exchange securities, but they do not guarantee that the value shall continue. Moreover, it is to be noted that when a licensee dies, the license does not pass to his executors in the same way as his other property.

The executors may continue until the next special sessions, but must then apply for a transfer to some one on their behalf, and the transfer may be refused.

(2) Municipal authorities have to pay the full value of licensed property when they acquire it for public purposes.

This is true, and it is very absurd that it should be so. That the local licensing authority should give away licenses, and the local municipal authority have to buy them back again sometimes at a high figure is the height of absurdity. The license is supposed to be granted for the public benefit, and when the property is required to be taken for the public benefit the municipality should not be required to pay more than the value of the property without the license. Meanwhile, however, municipalities are put upon the same footing as railway companies, and have to pay full market value for property plus a percentage for disturbance. But no argument for compensation can be based upon this, when the licensing authority declines to renew the license because it has ceased to be required in the public interest.

(3) Parliament paid £20,000,000 to the West Indian planters when slavery was abolished. Ought not the drink trade to be dealt with on equally generous principles?

The cases are not parallel. The planters owned their slaves. They had a permanent property in them, not an annual license for their services. This permanent proprietorship had been recognised by Parliament and by the Courts, and whether slavery was immoral or not, the planters had a legal claim when Parliament deprived them of their "chattels." Were Parliament to propose to confiscate the liquor belonging to licensees the case of the slave-owners might fairly be cited. The publicans would have a claim to be paid the value of the liquor. But this is not proposed.

The idea that the liquor trade can be morally entitled to compensation if its privileges are taken away becomes more untenable when we remember how the whole value of the license depends upon monopoly.

Let us assume the case of a street with fifty houses worth £2,000 each. The justices grant a license to one house, and it becomes, let us say, worth £10,000. But this is purely a monopoly

value. If the justices choose to license the house over the way the value of the former house falls to £5,000; if they choose to license several houses in the street its special value practically disappears. It would be quite possible to act thus. Something like it was done at one time in Liverpool, where for four or five years licenses were given to nearly all applicants. Were it done throughout the country, the special value of public-house property would be at an end, yet the idea that under these circumstances publicans could claim compensation would be received with a smile. But if it is absurd in one case it is no less absurd in the other.

The most that owners of public-house property can expect is that they shall be treated with consideration, and shall have a reasonable time to turn round in, and dispose of their stock, before any wholesale reduction of licenses is carried into effect.

It is sometimes urged that though licensees may not be actually entitled to compensation, yet it would facilitate a reduction of licenses were an Act passed compelling the trade to compensate the trade. Against the trade compensating the trade there can be no objection, but there are good reasons

why this should not be done through the medium of an Act of Parliament.

(1) It would be extremely difficult for the Legislature to interfere without creating a vested interest. Were it to decree that a certain number of public-houses should be closed, and to compel the licensees who were spared to buy out those who disappeared, it would not be easy to effect a further reduction without compensation. Hence, as the closing of a number of public-houses would increase the value of those which are left, the nation might have to pay in the end the total present-day value of public-house property. It may not be impossible to draft a measure which would avoid this danger, but it will not be easy.

(2) Compensation by Act of Parliament would be extremely wasteful. Any scheme arranged by the trade itself in its own way and without Parliamentary interference would have the virtue of economy and precision. This has been proved in connection with the Birmingham surrender scheme, to which reference will be made later. Public-house owners cannot be easily misled with

regard to the value of a particular business. On the other hand, Parliamentary valuers would be misled continually. It is, for instance, well known that many public-houses do not pay. These are kept afloat in the hope that they may be exchanged for public-houses which would pay, or that compensation may some day be obtained when the licenses are relinquished. Were public-house owners left to settle the matter of compensation amongst themselves, such houses would have short shrift, but if compensation is arranged by Act of Parliament the most bankrupt beerhouse will make a substantial claim.

Parliamentary valuation would also almost of necessity be gone about in an expensive way. Counsel would be engaged, evidence would have to be sifted, and the costs of the arbitration would often be as heavy as the award.

(3) Parliamentary interference in the matter of compensation is most unnecessary. Public-house owners are not a helpless class, easily taken advantage of and needing the protection of the Legislature in order that they may settle their own affairs. If the money is really to come out

of their pockets, as is contended, then it is right that they should be permitted to make their own arrangements as to its division. They can do this effectively in various ways.

(a) *By Insurance.*

For a long time far-seeing owners of public-house property have safeguarded themselves against loss of license by insurance. One insurance corporation has upwards of £60,000,000 of licensed property on its books, and the rates of insurance, though they have been increased somewhat of late in view of the action of the magistrates in the licensing courts, are by no means high. Even were a serious decrease of licenses decreed and the rate of insurance greatly increased, it would merely mean that the trade was compensating the trade.

The method of compensating by insurance is specially valuable, because the rate charged can be varied according to the nature of the risk. Any Parliamentary method would treat good and bad alike, but a company can differentiate so that a high-class house, evidently supplying a public demand, shall not have to pay the same premium

as a badly-conducted or obviously unnecessary house.

(b) *By Mutual Arrangement.*

The city of Birmingham has given an excellent object-lesson, showing how the trade can compensate the trade without interference.

In that city it was allowed both by the magistrates and the owners of public-house property that the number of licenses was excessive. The owners accordingly formed themselves into a limited company for the special purpose of facilitating surrender and adjusting compensation.

The mode of procedure adopted by the owners was as follows :—

An area having been selected for treatment, all the licensed houses in the area were valued by a committee of the owners, or by a valuer appointed by them. It was then determined by a joint committee of owners and magistrates which of the licenses should be allowed to lapse, and the owners of these houses were paid the value as previously fixed.

Upon the principle that the trade done by the remaining houses was increased and their capital value appreciated by the closing of some of their

number, two-thirds of the value of the closed houses was assessed upon the owners of the houses in the district. The remaining third, representing lapsed trade, was spread over the public-house owners throughout the city. Thus the matter was dealt with, and a substantial number of licenses allowed to lapse, every arrangement for compensation being made by the owners themselves, to their mutual satisfaction, and without interference. Eventually the owners, fearing that the scheme was going farther than was to their interest, endeavoured to withdraw from the arrangement, but not until they had shown how easily the trade may compensate the trade without Parliamentary interference.

Finally, it has been said that licensing magistrates sometimes grant renewals out of pity to the publican rather than because they think the license desirable in the interests of the public. If they knew that he would receive some compensation for the loss of his license, they would, it is said, be readier to refuse renewal.

Much might be said to show the unreasonableness of a position which puts the interest of one man before the interest of the community, but it

is only necessary to point out that none of the schemes of compensation which have been proposed would give any relief to the publican. The money would almost inevitably go to the brewery or distillery company to whom the publican is tied. Were it possible to arrange a scheme by which publicans and their servants might receive a compassionate allowance when the renewal of a license was refused through no fault of theirs, the scheme might be worthy of consideration.

CHAPTER VI

THE LAW OF LICENSING IN SCOTLAND

THE Licensing (Scotland) Act, 1903, which came into operation on January 1, 1904, consolidated with amendments the laws of licensing in Scotland. The following is an abstract :— 3 Edw. 7 c. 25.

PART I.

CONSTITUTION OF LICENSING AND APPEAL COURTS.

1. Two general half-yearly meetings of the licensing courts are to be held annually for the purpose of granting certificates.

2. Each burgh being a county of a city, and each royal, parliamentary, or police burgh containing a population of or exceeding seven

thousand, and each burgh with a population under seven thousand, but of or exceeding four thousand, the magistrates of which have power to grant certificates under the existing Acts, shall have a separate licensing court, consisting of the magistrates of the burgh.

3. (1) Each County Council shall determine whether the county shall be divided into licensing districts for the purposes of this Act. The County Council may adopt local government districts, or a combination of them, as licensing districts, but no licensing districts other than these shall be constituted, and no county not divided into local government districts shall be divided into licensing districts without the consent of the Secretary for Scotland.

(2) Burghs, except those specified above, shall be deemed to form part of the county and of the local government or licensing district within which they are situate.

(3) Each county or licensing district shall have a separate licensing court, the number of members being in accordance with Schedule annexed, one-half being elected by the county justices from their own number, and one-half by the County

Council from their own number. Burghs with a population under four thousand, the magistrates of which have power to grant certificates under the existing Acts, are to be represented on the County Courts in manner provided.

4. For appeals and confirmation of new certificates there shall be a court of appeal, half the members of which shall be elected by the justices from their own number, and half shall be burgh magistrates or county councillors respectively, as provided in the Act.

5. The term of office of members of a licensing court or court of appeal is three years. Retiring members are eligible for re-election, if qualified. Half the members of a licensing court or court of appeal (and in no case less than two members) must be present to form a quorum. The chairman of a licensing court has no second or casting vote on an application for a new certificate, and no such application shall be granted by such court except by a majority of the members thereof present and voting.

6. A burgh licensing court shall meet on the second Tuesday of April and the third Tuesday in October. A county or district licensing court

shall meet on the third Tuesday of April and the last Tuesday of October. The courts may adjourn from time to time during the period of one month, but no longer.

8. The town clerk shall be clerk to the licensing court for a burgh having a separate licensing court, and the clerk of the peace shall be clerk to the licensing court for a county or licensing district, and to the court of appeal.

9. No brewer, maltster, distiller, or dealer in or retailer of exciseable liquors, or partner of such, shall act as a member of a licensing court or court of appeal. No member of a court shall act in connection with the granting of a certificate to a house of which he is proprietor or tenant.

PART II.

POWERS, DUTIES, AND PROCEDURE OF LICENSING AND APPEAL COURTS.

11. Meetings for the granting of certificates must be held with open doors, and the renewal of a certificate may not be refused without hearing the party in support of the application for renewal

in open court, if such party shall think fit to attend.

12. Certificates commence on the 28th of May or 28th of November, and continue in force until the 28th day of May following.

13. A grant of a new certificate by any licensing court shall not be valid unless it shall be confirmed by the court of appeal from such licensing court.

14. Persons making new applications, or desiring renewal, must fill up forms prescribed in Schedule and lodge them with the clerk to the court fourteen days at least before the general meeting. A licensing court may not entertain any application for a new certificate until a report has been made signed by a duly qualified member of such court certifying the suitability of the premises and the character and qualification of the applicant. Should there be an appeal the court of appeal may themselves inspect the premises and review the report.

15. Licensing courts may make such regulations and rules as they think fit, not inconsistent with the Act, as to the manner of making application, and of ascertaining the character of

applicants, and as to the expediency of granting the certificates applied for, and as to the mode of proceeding in transferring certificates.

16. The names and designations of applicants and the result of the applications are to be entered in a book, and convictions under the Act noted in the same.

17. Ten days at least before the general meeting of the licensing court the clerk shall advertise a list of all applications for new certificates, and all applications by new tenants or occupants of premises at the time certificated ; and of applications for renewal of certificates transferred during the previous half-year. This list is to be made accessible to all who desire to see it.

18. Applicants for renewal of certificates, not transferred during the current half-year, need not produce certificates of character, nor attend in person at the meeting, unless required by the licensing court to do so.

19. Any person or the agent of any person owning or occupying property in the neighbourhood of the premises for which a certificate or the renewal of a certificate is asked, may object. The

grounds of such objection, signed, must be lodged with the clerk, and a copy delivered to the applicant not less than five days before the general meeting. Should the objection appear frivolous the court may find the objector liable in expenses.

20. The licensing court may hear and determine at any general meeting without notice objections made verbally or in writing by any member of the court, or by the procurator fiscal, chief constable, or superintendent of police against the granting or renewing of any certificate.

21. The courts may compel the attendance of witnesses, and examine on oath, and deal summarily with persons who prevaricate or wilfully conceal the truth, or refuse to be examined.

22. Any member of a licensing court or any proprietor or occupier who has objected to the granting or renewal of a license and is dissatisfied with any proceeding of the licensing court may appeal against their decision. The appeal must be lodged within ten days, and the appellant must find caution, and give intimation of the appeal to the opposite party, and to the licensing court.

23. The refusal of a new certificate by the licensing court is final.

28. The application for confirmation of a certificate must be in the form set forth in the Schedule, and must be lodged (together with the certificate) with the clerk to the court of appeal within ten days after the grant of the certificate.

29. Any person who appears before a licensing court, and opposes the grant of a new certificate, and no other person, excepting the procurator fiscal for the public interest, may appear and oppose the confirmation of such grant by the court of appeal.

31. (1) Transfers to new tenants or occupants of any certificate then subsisting may be granted at any October half-yearly meeting.

(2) In case of the death, bankruptcy, insolvency, or incapacity of a certificate holder, any two or more members of the licensing court may grant a transfer to the proper representative, to hold good until the next general half-yearly meeting of the licensing court.

33. The licensing courts may under certain circumstances postpone the consideration of an application to an adjourned meeting.

34. The forms of certificates granted under the Act are in the Sixth Schedule. They are

of three kinds. For Inns and Hotels, for Public-houses, and for Dealers in exciseable liquors and Grocers and Provision Dealers.

The regulation as to hours is the same in all—namely, from eight in the morning to such hour at night not earlier than ten and not later than eleven as the licensing court may direct. There is no Sunday sale except in inns and hotels to lodgers and travellers.

35. Should the licensing court deem it inexpedient to grant the certificate in the form applied for, they may grant one in any other of the forms. Provided that in any locality within any county, district, or burgh requiring other hours for opening and closing than those specified in the forms of certificate, the court may insert in the certificate such other hours, not being earlier than six or later than eight in the morning for opening, or earlier than nine or later than eleven in the evening for closing, as they shall think fit.

36. A certificate is confined to one house and premises.

37. Certificates for the sale by retail of spirits and wine include authority to sell malt liquors,

but the licensing court may grant a certificate for the sale of wine and malt liquors, or for the sale of malt liquors only.

38. (1) The court may grant a six-day certificate for an inn and hotel, if requested, omitting from the certificate the words "and travellers."

(2) The court may insert in a certificate for an inn and hotel, or a public-house, a condition that it shall be closed one hour earlier at night, if requested.

(3) An hotel keeper with a six-day certificate may sell on Sunday to persons lodging in the house.

40. Special permission may be given to keep houses open during particular times. Magistrates of large towns having now power to close at 10 o'clock, this subject assumes new importance.

41. Licensing courts may make byelaws for closing premises on special days, enforcing non-residence, requiring grocers to sell in closed vessels only, requiring licensees to sell eatables, etc. The byelaws must be confirmed by the Secretary for Scotland.

42. (1) When a new certificate is applied for a plan of the premises must be deposited.

(2) No reconstruction or alteration may be made without the consent of the licensing court.

(3) On any application for renewal the licensing court may require a plan of the premises to be deposited, and may order alterations to be made.

An order for alterations is subject to appeal, and if such order is complied with, no further requisition for structural alteration shall be made within the next five years in the event of the certificate being renewed from year to year during that period.

(4) Any person interested in premises about to be constructed, or in course of construction, may apply for a provisional certificate in respect of the same. A provisional grant and order of confirmation are not valid until declared final by an order of the licensing court made after notice in the usual way. Permission may be granted to a licensee to carry on business in temporary premises during reconstruction.

PART III.

EXCISE LICENSES.

43. No excise license for the sale of exciseable liquors by retail, whether to be consumed on the

premises or not, shall be granted by the Commissioners of Inland Revenue, or by any officer of Inland Revenue without a certificate.

44. No excise license for the sale of table beer not to be drunk on the premises shall be granted without a certificate.

45. No excise license for the sale of sweets by retail shall be granted without a certificate granted in terms of this Act.

46. Excise wholesale licenses are forfeited where holders are convicted of offences against the provisions of certain sections of the Act, and their holders rendered incapable of holding any such license for two years from date of conviction.

47. No excise license for the sale of exciseable liquors in any theatre or place of public entertainment erected after the commencement of the Act shall be granted without a certificate.

48. Holders of six-day certificates, or early-closing certificates, may obtain a proportionate reduction of duty.

49. Where an appeal is pending against a refusal of a licensing court to renew, the Commissioners of Inland Revenue may permit the

business to be carried on during the pendency of the appeal.

50. Excise licenses for naval and military canteens may be granted without a certificate.

51. Every excise license for sale by retail of exciseable liquor shall expire on the twenty-eighth day of May following the granting thereof.

PART IV.

OFFENCES AND PENALTIES.

52. Sales by retail shall, unless in cask or bottle, or in quantities less than a pint, be in measures marked according to the imperial standard. Penalties are provided.

53. Penalties are provided for breach of certificate, and such penalties may comprise forfeiture of certificate.

55. Liquor may be supplied, at times otherwise illegal, on order signed by an officer of police, or procurator fiscal, or medical official.

56. Nothing in the Act as to days or hours of closing shall preclude the sale at any time on any day other than Sunday at a railway station of

exciseable liquors to persons arriving at or departing from such station by railroad.

58. Spirits must not be sold to children under sixteen to be consumed on the premises.

59. No exciseable liquor may be sold to children under fourteen for consumption by any person on or off the premises, excepting in corked and sealed vessels in quantities not less than one reputed pint for consumption off the premises only. The sender and the vendor are equally liable in penalties.

60. (1) If an hotel keeper sells or gives out liquor on Sunday to a traveller except for his personal use within the hotel, he is guilty of breach of certificate and liable in penalties.

(2) A traveller inducing a hotel keeper or his servant to break the law as above is liable in penalties.

61. Persons falsely representing themselves to be travellers and thus obtaining liquor on unlawful days, or during unlawful hours, are liable in penalties.

62. Licensed persons harbouring constables on duty, or supplying liquor or refreshment to such, whether by way of gift or sale, unless by authority

of a superior officer, or bribing or attempting to bribe a constable, are liable in penalties.

63. (1) No licensed person, or servant of such, shall sell, distribute, or deliver to a customer exciseable liquor from any van or other vehicle, unless before such leaves the premises the liquor has been ordered by the customer, and duly entered in a delivery book, pass book, or invoice, and in a day book, the delivery book, pass book, or invoice to be carried by the driver of the van, and the day book to be retained in the premises. All such books and invoices shall specify the name and address of the customer and the quantity and description of the liquor purchased.

No exciseable liquor except such as is entered as above may be carried in the van while in use for distribution, and no exciseable liquor may be delivered to any person other than the one duly entered as above.

(2) A constable may examine a van at any time, and order the exhibition of all the books and invoices mentioned, and any person obstructing such examination, or making fictitious entries, is liable in penalties.

(3) Persons convicted under this Section are

deemed guilty of the offence of hawking exciseable liquors, and are liable in penalties, expenses, and forfeitures.

(4) Any person inducing the owner or person in charge of a van to supply him contrary to the terms of the Act is liable in penalties.

64. The collection of rates and taxes on licensed premises is prohibited.

65. Trafficking in exciseable liquors without a certificate is severely punished.

66. Bartering or selling spirits without a certificate is severely punished. Any person having a license to supply spirits for off consumption, supplying spirits to be consumed on the premises, gratuitously or otherwise, is liable in heavy penalties, and if three times convicted is incapable of holding a license in all time coming.

67. A person hawking exciseable liquors may be taken into custody by any constable, or in the absence of a constable, by any person whomsoever.

68. Disorderly persons refusing to quit licensed premises when requested, and persons refusing to quit at closing time, are liable in penalties and may be taken into custody by any constable.

69. Any person inducing the holder of an off-

license to supply him with liquor, and drinking the same on the premises, is liable in penalties.

70. (1) Every person found drunk and incapable in any street, thoroughfare, or public place, whether a building or not, or on licensed premises, and any person drunk while in charge of any carriage, horse, cattle, or steam engine, or when in the possession of loaded firearms, may be taken into custody by any constable, and is liable to fine or imprisonment.

Every person who in any street, thoroughfare, or public place, whether a building or not, or on licensed premises, behaves while drunk in a riotous or disorderly manner, is liable to fine or imprisonment.

(2) Any person found drunk in charge of a child under the age of seven years is liable to fine or imprisonment.

(3) An offence under this Section shall be deemed an offence mentioned in the First Schedule to the Inebriates Act, 1898.

The expression "public place" includes a railway station, and any place to which the public have access, and any public conveyance.

71. Any person convicted of any offence

mentioned in the First Schedule to the Inebriates Act, 1898, may, either in addition to, or in substitution for any other penalty, be ordered by the court to find caution for good behaviour.

72. (1) Where any person is convicted of any offence mentioned as above, and within the twelve months preceding has been convicted three other times of any offence so mentioned within the preceding twelve months, the court may order notice of the conviction to be sent to the police authority.

(2) The court shall inform the convicted person that notice is to be sent, after which if such person attempts to purchase or obtain exciseable liquor at any premises licensed for sale by retail, or at any club registered under this Act, he is liable in penalties, and any person holding a certificate or in a club who knowingly sells or supplies him with liquor, or authorises such sale, is also liable.

(3) The police shall give information to licensed persons and the secretaries of clubs to assist them in identifying convicted persons.

73. Habitual drunkenness of either husband or wife established in an action according to the law in Scotland, shall be held equivalent in law to and

shall be treated by the court as having the same legal consequences as cruelty and bodily violence by the habitual drunkard towards his or her spouse.

74. Any person who procures, or attempts to procure drink for a drunken person, or aids and abets him in obtaining liquor on licensed premises is liable to fine or imprisonment.

75. (1) Every person found drunk or drinking in a shebeen may be taken into custody and punished on conviction.

(2) Being found drunk in a shebeen shall be deemed an offence mentioned in the First Schedule to the Inebriates Act, 1898.

76. Allowing the consumption of exciseable liquor in refreshment rooms, ice-cream shops, tobacconists' and such places during days and hours in which licensed premises are closed is prohibited under penalties.

PART V.

REGISTRATION OF CLUBS.

77. (1) A register of all clubs registered under the Act is to be kept by the sheriff clerk ("the registrar").

(2) The registration of a club under this Act shall not constitute the club licensed premises or authorise any sale of exciseable liquors therein which would otherwise be illegal.

78. (1) The secretary of a club desiring registration shall lodge with the registrar an application duly signed, and giving full information as specified in the Section. The application must be accompanied by copies of the rules, by a list of the officials and committee, and by a certificate, in form set out in Schedule, signed by two magistrates or justices, and by the owner of the premises, stating that the club is to be conducted as a *bonâ fide* club, and not mainly for the supply of exciseable liquor.

(2) A secretary desiring renewal of a certificate must apply twenty-one days before its expiry, and conform to the same incidents as in the case of an original application.

79. (1) The registrar shall give notice of application to the police, and to the town council, or parish council as the case may be, and if no objections are taken the sheriff shall grant the application.

(2) Objections to either grant or renewal must

be lodged with the registrar within ten days of the receipt of the notice of application.

(3) The sheriff shall hear the parties on the application and objections, and make such inquiry as he thinks fit, and thereafter grant or refuse the application.

A certificate remains in force for twelve months from date of issue.

80. Club rules qualifying for registration are laid down in this section.

81. The grounds upon which alone objection can be taken by the sheriff to the grant or renewal of a certificate are specified in this section.

82. A justice or magistrate may grant a warrant to any constable or constables named therein to search a suspected club whether registered or unregistered. The constables may force an entry, inspect the premises, take down the names and addresses of persons found therein, and seize books and papers. Persons resisting are liable in penalties.

83. (1) Penalties of fine and imprisonment are enacted for persons supplying, or paying for, or authorising the supply of exciseable liquor in an unregistered club.

(2) If any exciseable liquor is kept for supply or sale in an unregistered club it may be seized by the police under a warrant, and the vessels forfeited, and every officer and member of the club is liable in penalties.

84. If any liquor is sold in a registered club for consumption outside the club, except to a member on the premises, and for his own consumption, or to a person holding an excise license for the sale of such liquor, every person supplying, or paying for, or authorising such is liable in penalties.

85. On sufficient evidence that a club is not being properly carried on the sheriff may cancel its certificate.

86. Where a finding has been pronounced that a registered club is not conducted in good faith, or is used for an unlawful purpose, or mainly for the supply of exciseable liquor, or that there is frequent drunkenness on the premises, or that persons not members are habitually admitted merely to obtain exciseable liquor, then every person entered in the register of clubs as an official or member of committee is liable in penalties.

88. (1) The jurisdiction of a sheriff being a member of any club shall not be excluded by such membership. (2) The decision of the sheriff in dealing with an application for an original certificate or for the renewal of a certificate, or in cancelling a certificate, shall be final and not subject to review.

89. Any one lodging with the registrar an application for registration false in any material particular is liable to fine, or imprisonment, or both.

PART VI.

LEGAL PROCEEDINGS.

91. Lays down rules concerning prosecution of offences and application of penalties and expenses.

92. A person complained of for breach of certificate shall be cited at least six free days before he has to appear.

93. A person complained of for trafficking without a certificate may be apprehended by warrant instead of summoned, should the justice or magistrate see fit.

94. The police shall, without delay, report to the procurator fiscal or other party by this Act directed to prosecute all offences committed against the Act coming to their knowledge.

95. The police shall have full power to enter and inspect any eating-house, temperance hotel, shop, or other place, or any boat or vessel, where food or drink of any kind is sold to be consumed on the premises, or in which they shall have reason to believe that exciseable liquors are being unlawfully trafficked in.

96. A justice or magistrate may, if satisfied that he has reasonable ground, issue a warrant to enter and search for and seize exciseable liquors illegally kept for sale on unlicensed premises, and if such are found they shall be forfeited, and the person occupying or using the premises is liable in penalties.

98. Where a licensed person is charged with permitting drunkenness on the premises, and it is proved that any person was drunk on his premises, it shall lie on the licensed person to prove that he and the persons employed by him took all reasonable steps for preventing drunkenness on the premises.

99. A certified record of every conviction under this Act for breach of certificate must be sent by the clerk of the court to the clerk of the licensing court, and by him to the Commissioners of Inland Revenue, or to the collector of Inland Revenue in the particular district.

101. Any person considering himself aggrieved by any judgment given upon any complaint presented under this Act by any two or more justices of the peace may appeal to the justices assembled at the next Quarter Sessions.

102. Appeal may be made to the High Court in any cause, prosecution, or complaint under this Act, for any offence punishable by fine or imprisonment, provided the appeal is founded on the ground of corruption or malice and oppression on the part of the sheriff, justices, or magistrates, or on such deviations in point of form from the statutory enactments as the court shall think have prevented substantial justice from having been done.

103. No warrant, sentence, order, decree, judgment, or decision made or given by any Quarter Sessions, sheriff, justice, or justices of the peace or magistrate in any matter under this

Act shall be subject to review, on any ground, or for any reason whatever, other than by this Act provided.

104. Actions and prosecutions against sheriffs, justices, magistrates, procurator fiscal, clerks, and other officials must be commenced within two months after the cause of action or prosecution shall have arisen.

106. No solicitor or other person being a clerk to a licensing court or a court of appeal, and no procurator fiscal or other person entrusted with the prosecution of offences against this Act, shall by himself, his partner, or clerk as solicitor or agent for any person, conduct or act in any application for or in respect of a certificate or any other proceedings whatsoever under this Act before such licensing court or court of appeal, and if any person contravenes this provision he shall be liable on summary conviction before the sheriff to a fine not exceeding one hundred pounds.

CHAPTER VII

THE UNITED STATES

IN the United States inter-state traffic in intoxicating liquor is subject to Federal law. Each State can, however, regulate as it chooses the manufacture and sale of liquor within its own borders, hence the liquor laws of the States are the laws of about fifty independent communities, and are very varied in character. They may, however, be grouped under four headings—State Prohibition, Local Veto, High License, and State Monopoly.

1. State Prohibition.

Several States have tried prohibition, and five—Maine, New Hampshire, Vermont, Kansas, and North Dakota—retain it.

The prohibitory enactment of Kansas may be taken as a sample of the others.

"Any person or persons who shall manufacture, sell, or barter, any spirituous, malt, vinous, fermented or other intoxicating liquors, shall be guilty of a misdemeanour, and punished as hereinafter provided. Provided, however, that such liquors may be sold for medical, scientific, and mechanical purposes, as provided in this Act."

It must be understood that no State prohibits drinking, or keeping liquor, or obtaining it from other States. Prohibition, in the sense in which the word is often used in this country, does not exist.

A prohibition State prohibits the manufacture and sale of liquor within its own area. Further than this it cannot go. With foreign or inter-State traffic it has no concern. A resident in Maine cannot purchase liquor in Maine, but he can order it in Boston, and have it delivered by common carrier at his residence.

Of what value, then, is a prohibitory law? Its value lies in the abolition of the liquor saloon. This in itself is a great gain. Apart from any other consideration, the open liquor saloon is

considered a nuisance in America, and men who use alcohol habitually do not hesitate to vote for prohibition on this ground.

Concerning the moral influence of a prohibitory law there is room for difference of opinion. Some contend that in any case it is well that the young should grow up without seeing the open sale of intoxicants, and learn to associate dealing in liquor with that which is surreptitious and discreditable. Others say that a law which makes a crime of that which is not morally a crime encourages contempt for the law. There is truth in both contentions ; a prohibitory law may sometimes be best, but not always. If the popular feeling is against a prohibitory law, as it often is even in some parts of a prohibition State, the law will be systematically evaded, and will fall into contempt. But where the popular feeling is in favour of prohibition, and citizens and officials conspire to carry it out loyally, the results are excellent.

The American State is, however, too large a unit for prohibition. When the vote is taken for " license " or " no license," that which happens in England in a county election happens

in America—some districts vote one way, some the other. Where the question is the sending of a man to Parliament there is no complication. The man goes and there is peace until the next election. But when the question decided is the passing of a law like prohibition it is otherwise. In districts where voting went strongly for prohibition the law is observed, for every citizen becomes a detective, and the "no license" men are strong enough to compel obedience. But in districts which voted "license" there is a rankling grievance. The citizens are hostile, the officials are lax, and the law is evaded. Nothing can be worse than that a people should openly disobey their laws, and thus, whilst prohibition may be doing good in one part of the State, it may be doing evil in another.

It may be asked whether the same argument would not tell against other laws. Because laws against theft are broken, is stealing to be tolerated?

But in every community, large or small, there is a public sentiment against theft. Not only does the moral code forbid it, but from motives of self-interest men everywhere recognise the need

for its suppression. Even professed thieves do not steal from each other.

There is no similar feeling with regard to the sale of alcoholic drinks. In most communities a number of respectable citizens are moderate drinkers, and acknowledge no moral obloquy in either drinking or selling drink. If a prohibitory law comes into force in their neighbourhood they disapprove of it, and are at no pains to see that it is obeyed by others, even if they obey it themselves.

The Mayor of Boston, in an inaugural address delivered in 1874, said :—

"The great problem how to remedy or diminish the immense evils resulting from the intemperate use of intoxicating liquor is still unsolved. Experiments to this end have failed. For many years we have had on trial a system of legislation prohibiting the sale of intoxicating liquors, and we have had, in pursuance of it, constant prosecutions, seizures, fines, and imprisonments; but, up to this hour, no appreciable decrease in the sale and consumption of the prohibited commodities. No different result could, I think, have been reasonably anticipated, considering that the prohibitory legis-

lation is manifestly opposed to public sentiment in the larger cities and towns of Massachusetts. It is disapproved, not only by those whose appetite or pecuniary interest is their supreme law, but by a great number of sober, thoughtful, and philanthropic citizens who have at heart the highest welfare of the community, and who believe that such legislation is impracticable in its nature, unsound in principle, and therefore worse than ineffectual. This legislation may be enforced, perhaps, in some of the rural districts, with a sparse population, where it is in accordance with public sentiment ; but it fails, and must fail, in the large cities on which it is imposed, as it were, from outside by the representatives of the small towns."

Though the above was spoken thirty years ago it remains a well-balanced statement of the case.

Before leaving the subject of State Prohibition, we may mention two law cases which have had an important bearing on the subject.

We have said that in a prohibition State the law does not prevent either private possession or importation, but only manufacture and sale.

Efforts have been made to carry prohibition

farther. Iowa, for instance, when under prohibition, forbade common carriers to bring liquor into the State without an official certificate. The matter was carried to the Supreme Court, in the case of Bowman *v.* Chicago and N.W. Railway Company, 8 Sup. Ct. Rep. (1888), and it was held that this was unconstitutional, seeing that it attempted to regulate inter-state commerce, which was reserved to the Federal Government.

The case of Scott *v.* Donald, 17 Sup. Ct. Rep. 265, known as the "Original Package" decision, was also important.

Some brewers in Illinois sent cases of beer to agents in Iowa, who sold them unopened to customers. The goods were seized, but the Supreme Court decided that under the existing law a State could not prohibit the sale of liquor in original packages. The decision paralysed prohibition for the moment. "Original Package" stores were opened everywhere, and liquor sold freely in barrels, cases, and bottles. But Congress interfered, and in 1890 the Wilson law restored matters to their former position.

Efforts have been made to go farther and persuade Congress to forbid the transportation of

liquor into a prohibition State, but that body declines to go beyond the Wilson law.

The permission to import liquor from other States nullifies prohibition to a certain extent, but on the other hand forms a safety valve without which a prohibitory law might prove altogether unworkable.

2. Local Veto.

We have seen in the last section that one great objection to State Prohibition is the difficulty of enforcement. A prohibitory law is not easily carried out even when the majority are in its favour, but, when in many districts the people are against it and the officials supine, the difficulties become insurmountable. Witnesses will not give evidence, juries will not convict, and the law becomes a byword. This is what happens when it is attempted to enforce a prohibitory law over a wide area.

Now the American State is too large a unit. It embraces localities lying widely apart, and not unfrequently differing almost as foreign countries differ. In the rural districts where the population is sparse and the dwellings are far apart, or in the

villages and small towns where the people are quiet and law abiding, a prohibitory law can be made effective. But in the larger towns and cities, with their alleys and back streets thronged by a cosmopolitan population, a prohibitory law could not be carried out even by force of arms.

But though prohibition over a large area is impossible, local veto, that is, prohibition in small areas, is effective. Hence laws permitting the county, ward, or township to prohibit within their own area have been widely adopted.

In Massachusetts, where State Prohibition was tried and abandoned, the three hundred and fifty city and township divisions into which the State is divided were adopted as units for a local veto law, and prohibition is carried out vigorously in many of these.

So also in the Southern States, where the character of the population renders prohibition specially desirable, several States have effectively prohibited the traffic by local veto over a large part of their area.

The procedure by which local veto laws are brought into force is generally as follows :—

A certain proportion of voters in the area

specified in the Act formally apply to the authority for a poll upon the question of license, and licenses are thereafter granted or refused in accordance with the result of the poll. In some States, as, for instance, Massachusetts, the Act provides that a poll may be taken annually, but generally the option can only be exercised every two, three, or four years.

Usually the Act is put into operation by the ordinary licensing authority, but in some States a licensing board is elected for the purpose.

Much that has been said of State prohibition applies also to local veto. Liquor may be procured from adjacent areas and freely used in private houses; the veto only extends to the manufacture and sale within the prohibited area.

The city of Cambridge, in which Harvard University is situated, affords an excellent example of the working of a local veto law. Cambridge votes "no license"; there are no liquor saloons there, and the city is a model of respectability. But Cambridge is a suburb of Boston, and its inhabitants can obtain liquor from the larger city without difficulty. The value of local veto to Cambridge lies therefore in the

elimination of the liquor saloon, no small gain in a University city.

On the whole, local veto works well in the United States, and, though it does not form a complete solution of the liquor problem, it is evident that a local veto law can be worked effectively, and without creating a sense of injustice.

3. High License.

Regulation by license lies between free trade and prohibition. Free trade in liquor has never succeeded. Not only for the sake of revenue, but also for keeping the peace, Governments have everywhere found restriction necessary. With prohibition we have already dealt. But over the greater part of Europe and America neither free trade nor prohibition prevail, but systems of licensing by means of which Governments both raise revenue and keep the trade in check.

Sometimes it is contended that it is wrong for a State which has at heart the welfare of its people to license shops for the sale of intoxicants at all. The objection is based upon misapprehension. Licensing rather checks than legalises the liquor

traffic. Doubtless this is not always the case. There are certain cases where prohibitory laws are possible, and in such places licensing may be fairly objected to. But for the most part prohibition is out of the question, and the choice lies between licensing and permitting free trade in intoxicants. Under such circumstances a Government restrains the liquor traffic by licensing, placing it under exceptional restrictions as compared with other trades.

In the United States that form of licensing known as high license has been widely adopted. It has been argued that if the cost of a license be placed sufficiently high the number of saloons will be thereby reduced, and the evil results to the community will be correspondingly diminished.

High licensing has undoubtedly certain advantages. It tends to eliminate the lowest class of drinking saloon, and makes police control easier. It has, however, disadvantages. It increases the commercial strength of the trade, and by appealing to the sordid interests of the taxpayer sets up an obstacle to reform. In Boston the whole cost of the police force is defrayed from the licenses.

High licensing, therefore, is not a perfect system.

The most that can be claimed for it is that it is better than free trade in liquor on the one hand, and better than illicit trading on the other. In populous places, where prohibition is impracticable, high license may be best. Its value, however, can be greatly augmented if it is accompanied by strict limitation of licenses. The mere fact of raising the cost of the license does not lead to reduction of numbers unless the increase in cost is very substantial. In some parts of America the cost is deliberately made prohibitive—five, ten, or even twenty thousand dollars. This is practically the same as the veto. But, generally, the cost of the license is not excessive, and it is desirable for several reasons that high license and the fixing of a maximum number of licenses in proportion to population should go hand in hand. Unless this is the case cupidity may negative any good results that might otherwise accrue.

A favourable instance of the working of high license in the United States is to be found in Pennsylvania.

Before 1887 Pennsylvania had an evil reputation. In Philadelphia, its principal city, the liquor saloons were to the inhabitants in the

proportion of 1 to 160. Any citizen, not of proved bad reputation, could obtain a license for fifty dollars.

The Brooks' Licensing Act came into force in 1888. The cost of a license was made a thousand dollars, and the licensee had to enter into a heavy bond with sureties.

The Court of Quarter Sessions was constituted the licensing authority. This court is composed of the higher judges in the State—men who, being elected for ten years, are comparatively free from electoral influence.

Under the Brooks Law the licenses in Philadelphia fell from 5,773 to 1,746, and the improvement in the city was most marked.

Notwithstanding the reduction in the number of saloons, the revenue from licenses increased materially. Before the Act the fees were 300,000 dollars; after the Act they had risen to 1,638,000 dollars, although the number of saloons was only one-third of what it had formerly been.

4. State Monopoly.

South Carolina has a population of 1,150,000, of whom 700,000 are coloured. The industry of

the State is mainly agricultural, but there are cotton-spinning factories, and important cities like Columbia and Charleston. The population is therefore enough diversified to give interest to an experiment in licensing law.

Formerly the licensing law was extremely unpopular, and the prohibitionists promoted a Bill in the State legislature which seemed likely to pass. The State Government, disapproving of prohibition, introduced a measure of its own, which was carried and came into force as the Dispensary Law of 1892. This law established a State monopoly of the liquor traffic.

On a certain date the saloons were closed, and the sale of intoxicants was undertaken by the authorities. The method is as follows :—

The Governor appoints a Commissioner, who, aided by a Board of Control, buys all liquors and sells them to local dispensers at a fixed rate.

All liquor packages are sealed, and contain not less than half a pint nor more than five gallons. The dispensers sell by package only, and a package must not be opened on the premises.

Regulations regarding local sale are made by

the county boards of control appointed by the State Board.

Liquor may be manufactured within the State and exported, but must not be sold to any one within the State itself except to the Commissioner.

The profits on the local traffic are equally divided between the county and the municipality in which the dispensary is situated. The State has as its share the difference between the price at which it buys from the manufacturer and the price charged to the local dispensers. This must not be higher than 50 per cent.

For a time the Dispensary Law met with bitter opposition, which went the length of rioting and bloodshed. The opposition was the more keen because the State Government at first prevented the importation of liquor from other States by the private consumer. Their right to do this was contested, and at length, in the case of Vance *v.* Vandercook, 18 Sup. Ct. Rep. 674 (1898), it was decided that importation for private consumption could not be prevented. This decision took some of the sting out of the opposition.

The law is obeyed better now, and in some

respects the system works well enough. Instead of a large number of liquor saloons selling chiefly for consumption on the premises, there are now a very much smaller number of dispensaries selling for home consumption only. The disappearance of the liquor saloon with its temptation to idleness and tippling is a benefit, and, as liquor can be easily enough obtained by those who require it, there is no legitimate grievance.

But the system has disadvantages.

The authorities establish dispensaries wherever they will pay, with little regard to public feeling, and much bitterness has been caused by attempts to force them upon prohibition towns.

The system also has illustrated the difficulty of keeping the liquor traffic out of politics.

The Governor, Secretary of State, and Comptroller General appoint all the officials, from the highest to the lowest, and fix their salaries. Naturally, strong partisans have been appointed, the result being a splendid political machine far more powerful than the liquor-sellers were before.

The example of South Carolina has been followed in some measure by North Carolina,

Georgia, and Alabama. The financial results are a disappointment.

Civil Damages Law.

Several American States have laws rendering the liquor-seller liable in damages for injuries which a man, under the influence of liquor supplied by him, may cause.

The following is a sample :—

"Every, husband, wife, child, parent, guardian, employer, or other person, who is injured in person, property, or means of support, by an intoxicated person, or in consequence of the intoxication, habitual or otherwise, of any person, shall have a right of action in his or her own name, severally or jointly, against any person or persons who, by selling or giving intoxicating liquor, have caused, in whole or in part, such intoxication." (Illinois and other States.)

The Civil Damages Law of Nebraska goes further, rendering the liquor-seller liable for all damages sustained by individuals or the public in consequence of the traffic, including the support of paupers, widows, and orphans.

Some of these laws require proof that the

intoxication was caused by drink supplied by the defendant, others merely require it to be shown that the defendant supplied some of the liquor.

Though the Act may not be often carried out in its most extreme form, it is by no means a dead letter, and the risk to the saloon keeper tends to make him very careful.

The tendency of American legislation is to treat the seller with greater severity than the consumer, and this is sometimes carried so far that the penalty for drunkenness is remitted in whole or in part, if the offender gives sworn information as to where he obtained the drink.

In Michigan a magistrate, on a sworn complaint that any one has been intoxicated in a public place, may compel the drunkard to testify as to where he obtained the liquor. Proceedings are then taken against the publican if he appears to have violated the law, the man himself escaping prosecution.

In addition to the usual Civil Damages clauses, there are generally powers under the law by which exemplary and actual damages may be

recovered by a parent or master for the illegal sale of liquor to a minor.

In most States there are laws under which the relations, guardians, or employers of habitually intemperate persons may give notice in writing to liquor-sellers, forbidding them to supply these with liquor. The notice generally holds good for twelve months, and if liquor is sold notwithstanding, damages may be claimed.

CHAPTER VIII

CANADA

CANADA is the most temperate section of the British Empire. It is also more temperate than any other country, either in Europe or North America.

The consumption of pure alcohol per head of the population is half a gallon annually, as compared with one and a quarter gallons in the United States, two gallons in the United Kingdom, two and a half gallons in Switzerland, and three gallons in France. In some parts of Canada, Nova Scotia for instance, the consumption is only a quarter of a gallon.

Experience proves indeed that a low annual consumption is not an infallible standard of sobriety. The consumption of alcohol per head

amongst the peoples of the Continent is greater than in Britain, yet there is less open drunkenness. Not that the mischief caused by alcohol is less. Medical men in France and Switzerland are beginning to realise that alcohol is working great havoc amongst the people, and efforts are now being made by the Governments to induce the people not to use it, at any rate in its more concentrated forms. Still there is less open drunkenness with them than with us, though there is a greater average consumption.

The higher average on the Continent is accounted for by the fact that drinking is universal, the light wines being consumed as the ordinary beverage by men, women, and children. In Britain the drinking is mainly done by about one-third of the population.

On the Continent, again, drinking is spread over the whole day and the whole week. In Britain a workman drinks moderately for six days and gets drunk on the seventh. He drinks in bursts.

In our Colonies there is too much drinking of this sort. On an Australian sheep farm, or in the backwoods of Canada the workmen are sober for

months on end. Then they get their cheques and spend in one wild bout the earnings of half a year. The average annual consumption is small, but the result is deadly. Nevertheless, the consumption of liquor in Canada is low enough to indicate a most satisfactory average of sobriety throughout the colony.

Canada has been spoken of at times as a country where prohibitory laws have been tried and abandoned. The statement is true but misleading. In Canada various sorts of prohibitory laws have been tried, and laws which did not work well have been abandoned in favour of laws which were found to work better.

The Dominion of Canada was formed in 1867 by a confederation of the provinces of Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Manitoba, and British Columbia.

When the federation took place, a Local Option Act passed by the Parliament of Canada in 1863, known as the Dunkin Act, had been already in operation in Ontario and Quebec, and was working well. This Act authorised prohibition in quite small areas, the municipality, or township being the unit. The Act was quite success-

ful, and is in operation in various parts of Canada to this day.

In 1878 a Commission was appointed to investigate the working of prohibitory laws in the United States. At that time the population of certain States in the Union was sparse, and the difficulties of prohibition in large areas were not recognised as they now are. The Canadian Commission, therefore, reported in favour of having a larger unit, and the Dominion Parliament passed the Scott Act, making the County or City the unit for local veto.

The Scott Act met with strenuous opposition, and some contended that it was unconstitutional. The Act of Confederation reserved to the provincial legislatures the right to make licensing laws, and this Act seemed like an interference with this right. In the United States the Act would probably have been considered *ultra vires*, but when the question was carried from the Canadian Courts to the Privy Council, it was decided that, as the Dominion Parliament was entitled to make laws for the peace, order, and good government of Canada, the Scott Act was valid. Russell *v.* Reg. (1882) 7 App. Ca. 829.

After this decision the validity of the Act being unquestionable it was accepted, and where temperance sentiment was strong it became law. It still remains in operation in various localities. But it was never popular, perhaps partly because there was a feeling that the Dominion Parliament had no right to interfere with local questions, partly because it was soon seen that the increase of the unit of prohibition was a mistake. Accordingly it was abandoned, in many places the inhabitants preferring the Dunkin Act, or other laws to which they had become accustomed.

In the province of Ontario the Scott Act was at first generally adopted, but was eventually abandoned owing to disputes with the Dominion Government about enforcement. The Provincial Government held that since it was a Dominion measure the Dominion Government should see to its administration. Friction arose, and as the local authorities took no pains to see that the measure was enforced it became unpopular and the province returned to the older laws. By these laws each municipality may prohibit, and many of them do prohibit, the

granting of licenses altogether. Should licenses not be prohibited, then the granting of them lies in the hands of three Commissioners appointed by the Provincial Government. The number of licenses is strictly limited. In Toronto, the capital, where the population is over 180,000, there is one license to every 1,000 persons, about one-fourth the number that would be found in England in a town of the same size.

In the province of Quebec, out of 900 municipalities, 377 either have the Dunkin Act in operation or grant no licenses at all. Some of the counties still retain the Scott Act. This province has a considerable Roman Catholic population, largely of French origin, and the priests, who have considerable influence, encourage total abstinence, especially amongst the young.

New Brunswick passed a prohibition law in 1855, but, a general election ensuing, the Act was repealed before it was enforced. Various experiments were tried and then the Act was passed which is now in force. By this Act the council of any municipality may prohibit all retail licenses, or limit their number to any desired extent. If this be not done, then the

district falls under the general Act, by which the number of licenses is limited to 1 to 500 in towns, and 1 to 1,000 in country districts. It is interesting to notice that this apportionment is the reverse of that which is generally proposed in Great Britain where the larger proportion of population is in the town, the smaller in the country.

In New Brunswick the petition for a license must be supported by a certificate signed by one-third of the ratepayers in the polling district, and a license cannot be granted at all if the majority of the ratepayers in any city, town, or parish petition against it.

In Nova Scotia the licensing laws are extremely strict. In some counties the Scott Act is in force, in the rest the trade is regulated by an Act passed in 1886. By this Act licenses are divided into three classes—hotel, shop, and wholesale. An application for a license must be accompanied by a certificate signed by two-thirds of the ratepayers of the district. This requirement existed in the old law before 1886, and its effect has been such that in some counties no license has been granted for twenty or thirty years. In Yarmouth, Nova

Scotia, no license has been issued for fifty years. Nova Scotia is, in fact, for the most part under prohibition in all but name. In Halifax, the capital, however, with a population of 30,000, there are 117 licenses.

There is a curious anomaly in Prince Edward Island. The Scott Act is in operation throughout the rest of the island, but in Charlotte Town, the capital, there is free trade in liquor. The law, however, insists on full publicity of sale. The saloon must be a single room, without blinds or other obstruction, open to the street, having neither chairs, furniture, nor back door. The population of Charlotte Town is small, under 12,000, and the arrangement is said to work well enough. Judging from the rest of Nova Scotia, it is probable that drinking is looked upon with disfavour, and the publicity thus given to it in a small town where every man is known to his neighbour, together with the sordid conditions by which it is surrounded, suffice to keep it in check.

In the provinces of Ontario, Quebec, and Nova Scotia, there are clauses in the licensing Acts similar to those mentioned in a previous section in connection with the Civil Damages Law of the

United States. In Ontario, for instance, if any person is killed by accident, or commits suicide whilst drunk, his representatives may claim damages up to one thousand dollars from the person who supplied the liquor. So also an action lies against the saloon keeper if the drunkard damages the property or person of another.

The laws also provide that the relatives of a habitual inebriate may serve notice on liquor sellers forbidding them to supply him with drink, and a magistrate may forbid the sale of liquor to any person who "by excessive drinking of liquor, misspends, wastes, or lessens his estate, or greatly injures his health, or endangers or interrupts the peace and happiness of his family."

The lesson taught by experience, whether in the United States or in Canada, is the same.

The prohibition of the manufacture and sale of intoxicants in large areas cannot be effectively carried out. The reason of this is sufficiently apparent. The inhabitants of a particular locality do not care to be dictated to by those who do not live in the locality, in a matter so closely affecting the comfort of the individual. In the States the

citizens of Boston decline to be overborne by the country voters of Massachusetts, and State Prohibition fails. In Canada the provinces prefer their own local byelaws to the Scott Act passed by the Dominion Government. And the Scott Act, having a larger area than the older Acts, is largely inoperative.

The prohibition of the manufacture and sale of intoxicants in small areas, on the other hand, has been successful wherever tried, whether in the United States or in Canada. Not that it has been always adopted or never abrogated, but in the places where it has been adopted it has been found possible to carry it out. Generally speaking, the smaller the area the greater the success. This is reasonable. The area should be so small as to embrace within it those who, so far as the locality is concerned, have interests in common.

It is idle to argue, as some do, that where prohibition is not enforced it is not fairly tried. The matter must be viewed practically. A law which is openly flouted does harm, not good. When prohibition in large areas is attempted the law is, generally speaking, flouted over a con-

siderable portion of the area. But where the area is so small that the inhabitants of the locality feel that it is their own law, enacted by themselves in their own interest, then they will see that it is enforced, and the law will do good and not harm.

A local veto law will not create universal sobriety. It will always be easy for any one who desires to get liquor to get it. But it diminishes temptation and adds greatly to the respectability of the locality that enforces it. It is by no means a universal remedy, but it is practicable, and good as far as it goes.

CHAPTER IX

SCANDINAVIA

1. Sweden

IN the early part of the nineteenth century Sweden was a very intemperate country. The alcoholic beverage of the lower classes was bränvin, a spirit made from potatoes and grain. The right of distillation went with the soil, landowners and tenants, with the owner's consent, having the right to manufacture and sell bränvin. In 1829 license fees were paid for 173,124 stills.

In 1835 an Act was passed suppressing the right of smaller landowners to distil, and an improvement was quickly manifest.

In 1855 laws were enacted dealing with both manufacture and sale. Private stills were abolished, and distillation became a strictly controlled and

taxed manufacture. In 1876 there were but 410 distilleries in the whole of Sweden, but they were large, and the quantity of bränvin manufactured was still considerable.

The liquor laws of 1855 also dealt with the retail trade in spirits.

Each commune received the power of deciding for itself, not only how the trade should be carried on within its limits, but also whether it should be carried on at all.

In rural Sweden the question was decided by the parish councils, in the towns by the aldermen and town councillors. In the country districts the people voted largely for no license. There are in Sweden 2,400 rural parishes, and in 1856 1,800 of these decided to have no spirit shops. Other parishes followed, and whereas formerly bränvin could have been bought in almost every cottage, there are now in rural Sweden only 251 spirit licenses, that is, 1 to 16,000 people.

The towns did not follow the example of the country districts. There were difficulties in the way. The question of vested interests scarcely arose in the rural districts. The right to distil being general was of small value, and as all were

treated alike there was no complication. In the towns it was otherwise. The sale of spirits was a legalised branch of commerce not easily stopped. Moreover, Swedish towns are mostly maritime, and have a considerable proportion of sailors and foreigners in their population likely to oppose prohibition and encourage smuggling. There were also in the towns many spirit licenses granted on a tenure more or less permanent. The councils had no power to touch these, and if they refused to grant other licenses they would enormously increase the value of the permanent ones. For these reasons the towns were unable to act as the country districts had done.

But in Sweden the trade of the people is so largely connected with timber that four-fifths of the population live in the rural parts, and the option so widely exercised by these had national results. The average consumption of alcohol fell enormously, and there was a striking improvement in the condition of the people in the country districts.

The condition of the towns, however, remained unchanged. The towns were still drunken, and matters were made even worse than before by the

adoption of prohibition in the country because such of the peasantry as desired to have spirits had now to purchase their supplies in the towns.

One of the worst cities in this respect was Gothenburg, a thriving seaport with a mixed population. A committee of Gothenburg citizens determined to take action, and conceived the idea of running the spirit traffic of the city upon semi-public lines. The municipality had no power to sell liquor, but it happened that in the law of 1855 there was a clause providing that where a company could be found willing to assume the whole spirit trade of a town, the authorities might entrust it with the whole of the licenses. The committee, taking advantage of this clause, formed themselves into the Gothenburg Spirit Company (the Bolag). Undoubtedly they acted with the best of intentions. They believed that by reducing the number of spirit shops, by improving the management of the houses, and by eliminating the element of private profit so far as the retail trade was concerned, they could effect reform.

Accordingly the Company proposed to take over the spirit trade of Gothenburg, and to work it in such a way that the element of private profit

would not enter into the transaction. The managers were to be paid by salary, the shareholders were to receive 6 per cent. (since reduced to 5 per cent.), and the surplus was to be divided between the city, the national exchequer, and the agricultural society.

The offer of the company was accepted ; thirty-six licenses were handed over in 1865, and by 1874 they had 69, the full number of spirit licenses, excepting some five places, which, having special privileges, could not be interfered with. The example of Gothenburg was followed by other towns, and now, out of ninety towns, 77 have spirit companies in operation.

The law has been amended in various ways, but remains substantially the same as the law of 1855. Briefly it is as follows :—

(a) *Manufacture of Spirits.*

Any person owning or leasing ground is eligible to be a distiller excepting Government officials, magistrates, and some others.

Distilling can only be carried on between October and May, and must be under inspection. The law requires that a minimum quantity should

be manufactured, otherwise a supplementary tax is levied.

The object of the law is to stop private distilling, to make sure that the distilleries are strictly controlled, and to guarantee that a sufficient revenue shall accrue to the State.

(b) *Sale of Spirits.*

There are a few privileged licenses granted previously to the Act of 1855, and these retain their privileges unless they are surrendered or forfeited.

As regards other licenses the procedure is as follows :—

In towns the magistracy, after consultation with the municipal council, or in a small town with the general assembly of the people in a town meeting, transmits to the governor an opinion as to the number of licenses that should be granted.

They may, if they see fit, decide not to have any licenses within the limits of the municipality. and in such a case the governor may not interfere. Otherwise his formal sanction is required.

Should licenses be decided on they are offered by auction on a given day unless a Company comes

forward willing to take charge of the whole trade, as already explained.

The offer of the Company must be at least as great as the probable amount that would be realised from licenses.

The Company may not transfer its monopoly, but may, with consent, grant sub-licenses to hotels, restaurants, clubs, and cafés.

The accounts of the Company are subject to official audit, and their profits over expenses and 5 per cent. dividend are divided as already explained. The proportions vary according to agreement.

In Stockholm eight-tenths go to the city, two-tenths to the Treasury. In Gothenburg seven-tenths go to the city, two-tenths to the Treasury, one-tenth to the agricultural society, and these proportions are followed in various other towns.

Where licenses are granted in the country districts, the method is practically the same as in the cities and towns.

There are strict regulations with regard to towns of closing on week-days and Sundays, and forbidding the supply of spirits to intoxicated persons and children.

(c) *Sale of Wines and Malt Liquors.*

Licenses are also required for the sale of wine and beer, and these also require the recommendation of the magistracy and the authorisation of the governor.

Applications for licenses in country districts are made to the Local Board of Government, who, after considering them, summon a parish meeting. In case it is decided that there should be no licenses, the matter must not be brought up again for three years.

The law about closing and illegal sales is much the same as in the case of spirit licenses.

The law as described applies to all Sweden except Stockholm, where the Governor-General is empowered to make special regulations.

2. Norway.

The course of liquor legislation in Norway resembles that in Sweden, but there are certain differences worthy of note.

Early in the last century Norway was, like Sweden, exceedingly intemperate. In 1845 local option laws were passed, and in 1854 further

restrictive measures. So freely was the power of the veto used in the country districts that in 1892 there were only 27 licenses to sell spirits in the whole of Norway outside the towns.

In 1871 a Norwegian law was passed permitting the towns to adopt the Company system. The first town to avail itself of the law was Bergen, where a Company was formed in 1877.

The Swedish Companies had been in operation for some years, and an objectionable feature had discovered itself. It was perceived that the handing over of the profits to the municipalities in aid of rates led to abuse. The municipalities were tempted to press the sale of spirits, and thus the very evil to combat which the Companies were created again arose.

It was determined, therefore, that the profits of the Norwegian Companies (the Samlag) should not go to aid the rates, but should be devoted to philanthropic societies depending upon voluntary contributions for their income.

Both in Sweden and Norway the early results of the Company system were satisfactory. The Companies generally began operations by reducing the number of spirit licenses, and this of itself

reduced consumption. As time advanced, however, the objects of the Companies were lost sight of. The municipalities soon perceived that the arrangement was a lucrative one, especially from their point of view. The drinking of spirits was common both in town and country, but as spirit shops had been vetoed in the country districts, all the spirits had to be bought in the towns, and the Company system made it possible for the towns to divert the profit on the sale to their own treasuries.

The injustice of the method was soon apparent, and reformers proposed that the monopoly enjoyed by the towns should be abolished, and an excise tax of a substantial character imposed practically upon the lines so successfully adopted in Britain.

This would have made the incidence of taxation uniform in town and country, but against it a great outcry was raised, ostensibly in the interests of temperance, really in the interests of the civic ratepayer.

The system, therefore, remains as it was, every effort to change it being strongly resisted by the towns. It suits them very well that the profits on the sale of spirits should lighten the burden of civic taxation. They would indeed gladly see

the monopoly extended to the sale of wine and beer. At present Gothenburg draws from twenty to thirty thousand pounds annually from the spirit monopoly in relief of rates; were the monopoly extended to wine and beer, the citizens would sit rate free.

It must not be imagined, however, that the Swedish or Norwegian Companies themselves work even the spirit trade. Probably it was intended by the original promoters of the Bolag that they should. But it soon became evident that the restaurants and better class public-houses were beyond their power. Taking Gothenburg as an example, we find that though the Company has been in existence for more than thirty years, and has had everything in its favour, its field of operations has become more and more circumscribed. Out of the 69 spirit shop licenses which it originally held, it only attempts to deal personally with 29. The others it farms out to private individuals who work them as they like and make what profit they can, carrying on their business under rules not more strict than those under which every publican works in our own country.

The Gothenburg Company, in fact, only attempts to manage the lowest class of dram shop. It does not confine itself to these from choice but because it has proved incapable of managing anything superior. For the rest it is simply a wholesale wine and spirit merchant with a monopoly in native whiskey.

There have been many abuses in connection with the Company system and from time to time protests have been made.

In 1893, the Swedish Diet addressed the King, praying him to devise measures to prevent municipalities and companies from stimulating the traffic, and resorting to questionable devices in order to secure larger profits for the locality.

Nor have matters been better in Norway. Consul-General Mitchell reporting from Christiania in 1893, said :—

"The original philanthropic object of the Association has been departed from, and the old licensed victualler has been replaced by hundreds of holders of 5 per cent. shares, politically and otherwise interested in the distribution of larger and larger surpluses from the sale of spirits, and by municipalities well content to improve and

embellish their towns without recourse to direct communal taxation."

So serious have these evils become in Norway that the Storthing has interfered, and withdrawn from the Companies the power of disposing of the major part of the profits.

In 1894 an important change was made in the Norwegian law. As already stated, the spirit trade had long been practically abolished in the rural districts, but in the towns the Company system prevailed. The Companies proving in many places unsatisfactory it was enacted that if the majority of the inhabitants voted against the Companies—that is, in favour of prohibition of spirit licenses—none should be issued. The voting was to be by universal suffrage, all over 25, both men and women voting. Thirty towns—that is, half the towns in Norway—decided against the spirit Companies.

The lessons that may be learned from Scandinavian experience and their bearing upon the liquor problem in Great Britain will be dealt with in a subsequent chapter.

CHAPTER X

RUSSIA

THE working classes in Russia are addicted to the drinking of vodka, a coarse spirit distilled from rye, and the vodka trade has long been a troublesome one. The difficulties arose more especially amongst the peasantry. Not only was there much drunkenness, but there were customs connected with the sale which tended to ever-increasing degradation. It was usual to sell vodka on credit, advancing it on account of wages, or in exchange for agricultural produce, or goods, or even wearing apparel. The result was a most pernicious development of the Truck system. The vodka-seller was not only publican, but money-lender, employer, and pawnbroker. These things led to dire oppression ; in many

places the peasants, no longer serfs to the nobility, had become serfs to the seller of vodka.

The Russian Government endeavoured from time to time to grapple with this evil. Laws were passed and edicts issued, but means were always found to evade these, and the evil increased. At length the Government determined to rid themselves of the vodka-seller altogether, and to take the sale of spirits into their own hands.

Accordingly, on January 1, 1895, a Government Spirit Monopoly was established in the provinces east of the Volga, then it was extended to the south and south-west. It is now established over the greater part of European Russia and Poland, and will soon, no doubt, spread over Siberia, and become the common law of the Russian Empire.

The monopoly is confined to the retail sale of spirits. Beer and wine continue to be sold as formerly in very unrestricted fashion, but ardent spirits and liqueurs can only be obtained in Crown shops, or in private establishments authorised by the Government to sell on commission.

As in Scandinavia, so in Russia the monopoly

only affects one particular class of the people, the lower class of labourers. The railway buffets, the cafés, the restaurants, and even the liquor saloons frequented by the upper and middle classes know nothing of the monopoly. Both in Scandinavia and in Russia these are conducted with fewer restrictions than similar establishments in England. In both Russia and Sweden class distinctions are strongly marked, and the working classes accept regulations submissively which would not be tolerated in England or in America for a single moment.

The method adopted in Russia is as follows. Having calculated the probable amount of liquor required for the year's consumption, the Minister of Finance invites tenders from distillers, and enters into a contract with them for two-thirds of the estimated quantity. The liquor supplied is taken to the State factories, where it is rectified, and reduced to a uniform standard. It is then served out to the Crown shops and other establishments authorised to sell intoxicating liquor.

In the Crown shops the spirit is sold in corked and sealed bottles. The bottles are also labelled,

the quantity and strength of the liquor being distinctly specified. The price of the bottle is strictly proportional to the quantity which it contains. The liquor must not be consumed in the shops, the managers of which are forbidden to keep either drinking vessels or corkscrews. The regulations even forbid buyers to open bottles on the way home, but that this rule is not easily enforced is evident from the fact that drinking in the streets has become a trouble since the establishment of the monopoly.

These rules only apply to the bars and restaurants patronised by the lower orders ; in the establishments patronised by the wealthier classes liquor can be purchased just as in England, either by bottle or by glass.

The old abuses practised by the former vodka seller are of course absolutely prohibited. The manager of a Crown shop must not sell spirits on credit, nor accept pledges, nor sell to drunken persons, nor to children. Moreover, village authorities have the right to ask the Government not to establish any spirit shops at all upon their territory, and should the authorities be satisfied that this proceeds from a general

desire and from laudable motives they may agree. This is local option of a somewhat qualified order.

In establishing this monopoly the Russian Government declared their objects to be two in number, namely, to increase the revenue from the trade, and to diminish drunkenness. These objects are not incompatible, though at first sight they may seem to be. Free trade in liquor would destroy the revenue, and vastly increase drunkenness. Strict regulation may be made to check drunkenness and increase the revenue. This has been proved again and again. Seeing how great the evils were in connection with the vodka trade there is therefore no reason to doubt that the Government were influenced by a higher motive than the mere increase of revenue.

The Finance Minister said :—

"If there should be a deficit in the State revenue because the consumption of alcohol has fallen, the Treasury will gain all that it loses in other ways, while at the same time the morals of the people and their material welfare will improve. Even if the revenue obtained by the sale of alcohol should decrease, it will not matter so

long as the material prosperity of the people is increased."

When the monopoly was first introduced the number of public-houses was greatly diminished and this led to a decrease of consumption. As time went on, however, the amount consumed increased, reverting to the former figure. The revenue from spirits has increased with uniformity, although it is even yet by no means large, judged from an English standpoint.

An important matter is the restriction of sale at certain times. The Crown shops are not opened on Christmas Day, Ash Wednesday, or Good Friday; nor on pay-day if near a factory, and only for a part of Sunday. They are closed on the days when the village council meets or the law-court sits, and at six o'clock on the eve of any great holiday.

Acting in harmony with the principles expressed by the Government when the monopoly was instituted they have endeavoured to set agencies on foot to counteract the evils of alcoholic drinking.

Wherever the monopoly has been introduced, a kind of temperance council, charged with looking after the moral well-being, has been set on foot.

The members of the council, known as "guardians," are chosen from amongst the officials of the district, but any one who is qualified by position, and specially desirous of sharing in the work, is welcomed as an auxiliary member without a vote.

The guardians are not only authorised to supervise the carrying out of the law as regards the sale of spirits, but to carry on a propaganda to dissuade people from buying them. They may open halls, and by popular discussions, public conferences, lectures, and pamphlets explain the evils attending the abuse of alcohol. They may also open tea-rooms and reading-rooms, and devise measures for dealing with habitual inebriates.

The guardians seem to have done a certain amount of good work in the big cities.

In Moscow, twelve Doms, or People's Houses, have been opened, with clubs, libraries, and other adjuncts.

In St. Petersburg, also, excellent work has been done. The committee there have provided a People's Palace, "the Nicholas Dom," where refreshment and recreation may be obtained at a trifling cost. They have also opened a monster

lodging-house on the same lines as our Rowton Houses, where a night's lodging may be had for five farthings, and a day's board and lodging for sixpence. Reading-rooms and free libraries have also been opened in various parts of the city.

All this is very excellent, and the Government deserve credit for doing it, but it is misleading to imagine that the providing of counter attractions to the public-house has anything really to do with spirit monopoly. The work done thus far, whether in Russia or in Sweden, is absolutely contemptible compared with the work done in Great Britain without any liquor monopoly, merely by municipal, or private effort. The Aerated Bread Company's shops do more to counteract the evils of spirit drinking than all the agencies set on foot in the Russian Empire. The same applies to the Rowton Houses and to a hundred agencies set on foot in England mostly by persons who are entirely opposed to the liquor traffic. It is desirable to make this clear because it is common for some to argue as if these agencies and liquor monopoly must stand or fall together.

As to the general effect of the monopoly there is much difference of opinion.

Those who are opposed to the monopoly declare that though there is no drinking in the public-house now by the working classes there is much drinking in the home and in the street.

This is probably true, seeing that the consumption of alcohol has not decreased. But it would certainly seem that of the two drinking at home must be better for a man than drinking in the public-house. There are, or should be, restraining influences at home tending towards sobriety, whereas in a public-house the influences are all the other way.

It is said that illicit sale has increased since the advent of the monopoly. This is possible. In most parts of Russia the vodka sellers were deprived of their businesses somewhat abruptly, and they may be having their revenge. It is also one of the features of Government monopoly or municipalisation that it encourages illicit dealing. Illicit sale cannot exist side by side with licensing because the publican is the first to find out if any one else is selling liquor and for his own sake at once warns the authorities. But when it is a public body which is being robbed nobody cares.

The methods of Russian Government, however,

are not as a rule encouraging to law-breakers, and it is probable that illicit trading will not be permitted to become a serious evil.

Those who favour the monoply, on the other hand, declare that the results have been satisfactory. They contend that there is a decrease in the number of arrests for drunkenness, and in the kind of crime which is associated with drunkenness. This may be so, for although there has been no decrease in the consumption of alcohol, it would seem not unreasonable to suppose that drinking at home would not be so productive of arrests as drinking in the public-house.

They also declare that there has been distinct economic progress, especially amongst the peasantry in the country districts ; that there has been an advance not only in the drink revenue but in ordinary fiscal receipts ; that the savings bank deposits have increased, and that the general indebtedness of the people has diminished.

There is no reason to doubt this statement of the case. The vodka seller sat on the necks of the peasantry like the old man of the sea, and the Government did well to get rid of him.

The reduction in the number of spirit shops,

even if it has led, as some say, to an increase in the number of beershops, is an advantage. The selling of spirits in corked and sealed bottles abolishes tippling and lounging about the bar of the public-house, and this is another advantage. The abolition of sales on credit and of the accepting of pledges are further advantages. But a report just issued in St. Petersburg states that there is much drinking in underground dens and that the law making drinking in the streets penal is a failure.

There is nothing for us to learn from the Russian method, because we are already far in advance. Our publicans are not pawnbrokers nor yet money-lenders, but men who carry on their business under very strict rules. Our Government and even our municipalities already make a far greater revenue from the liquor traffic than could be made by any conceivable monopoly. And our counter attractions to the liquor traffic, and our ways of counterbalancing its evil influences, are half a century a head of anything that Russia or Scandinavia can show.

CHAPTER XI

THE MUNICIPALISATION OF THE LIQUOR TRAFFIC

FROM time to time it has been proposed that local authorities should themselves undertake the retail sale of liquor. The arguments used in support of the proposal are plausible. Proceeding upon the assumption that the retail trade is a lucrative one, it is asked why these gains should not find their way into the municipal treasury, and be used for the benefit of the people? It is contended that were this done we should not only obtain the profits of the trade, but that the trade itself would be better controlled, and that many evils would disappear.

The argument in favour of municipalisation is

fortified by reference to Scandinavian experience. Norway and Sweden, once very drunken countries, are now comparatively sober, and what is known as the "Gothenburg System" gets much of the credit. It is desirable, therefore, that we should understand exactly what the Gothenburg System is, and what it has achieved.

In a former chapter the history of licensing in Norway and Sweden was dealt with.

Half a century ago the people generally drank a spirit called bränvin. The sale of the spirit was accompanied by abuses similar to those already described in connection with the sale of vodka in Russia. The licenses were sold by auction to the highest bidder, who had to get his money back by hook or by crook. In order to sell his liquor he took goods in exchange, or in pawn, or sold the liquor on security of wages or crops. Gradually the labouring classes fell completely into his power, and their condition was wretched indeed.

Accordingly, in the middle of last century laws, already described, were passed. By means of these the rural authorities—having first got rid of private distilling—at last prohibited the sale of bränvin within their respective areas. The pro-

hibition was not universal in the rural districts, but it was nearly so.

The Urban Communes did not follow their example, and the sale of bränvin continued in the towns, with all its attendant evils. At length, with no idea of temperance reform as we understand it, but in order to remedy the deplorable state of things which existed, the Gothenburg System was started. No new Act of Parliament was necessary for this purpose, as it happened that a clause in the former Act permitted the experiment.

The method was simple. Instead of selling the licenses one by one to private individuals the Corporation of Gothenburg sold them to a company, the members of which undertook to get rid of the abuses, and to content themselves with a 6 per cent. dividend. All profits above this figure were to be handed over to the municipality.

The experiment was successful. The abuses detailed above ceased so far as the Company's spirit shops were concerned, and the municipality received an income of £30,000 from its monopoly.

The example of Gothenburg was soon followed,

and now most of the towns both in Sweden and Norway have adopted this method of dealing with the spirit trade.

In order that we may be able to judge how far the system would be applicable to Great Britain we must clearly understand its position in Scandinavia.

(1) The Gothenburg System only applies to the towns, and it happens in both Norway and Sweden that four-fifths of the population live in the country districts.

(2) The system only deals with the sale of bränvin, once largely drunk by all, but now being superseded by beer and wine amongst the more respectable classes.

(3) The Companies do not attempt the respectable trade. Even the foreman of a gang would not enter a Gothenburg spirit bar to drink with his workmen. He would go to a house of a higher grade.

The precise position of the system can be well understood by a reference to Gothenburg itself. In that city it has been in force for thirty-five years, and the state of affairs is as follows :—

There are in Gothenburg 850 establishments

where liquor is sold. Of these 70 nominally belong to the Company. Of this number 40 are let to private licensees, who manage them as they like. The remaining 30, or to be quite correct 29, are directly administered by the Company. Of these, 4 are eating-houses, 7 are off-license houses, and 18 are spirit bars, frequented only by labourers of the roughest class.

The Bolag public-house has thus been described by a not unsympathetic observer :—

"It is the hour before the bar-sale closes. A throng of men, not one whit less rough-looking than our own lowest class of labourers, comes and goes with astonishing rapidity. They press up to the bar, order, and swallow at a single gulp a glass of neat spirits, pay for it and go. At one minute there are two dozen thronging at the little counter, the next they are gone, only to be replaced in a few minutes by another lot. Some order two glasses, and drink them immediately—one after the other, in successive gulps. It is all drunk neat ; no one takes any water ; there is none to be seen on the premises. The barkeeper and an assistant are kept so busy filling glasses, and refilling decanters at each end of the bar that they

have no time to look at the customers, and notice their condition. If you try to count the glasses sold it is impossible, but so far as you can calculate they are disappearing at the rate of thirty a minute. The spirit is bränvin, commonly called brandy, to which it has no resemblance. It is a 'plain spirit' made chiefly from potatoes, and the man who will pronounce it wholesome is either very bold, or possessed of private physiological knowledge.

"Such is the liquor and such the manner of drinking in Gothenburg under the Bolag."

We do not speak thus in order to bring the Bolag (the Swedish word for Company) into discredit. The Bolag did not introduce the habit of drinking spirits neat into Sweden. We merely desire to show the peculiar character of the trade which it has made its own. Caste is very powerful in Scandinavia, and the Bolags and Samlags only cater for the lowest caste. The ordinary liquor trade, such as we understand it, goes on quite independently. For example, only one eighty-fifth part of the beer consumed in Gothenburg is sold in the Company's shops.

The idea, therefore, that the Gothenburg System has solved the liquor problem in Gothenburg or anywhere else is fallacious. Though it has been in evidence for thirty-five years, it has never been able to deal with more than one kind of drinking —a kind which, we rejoice to say, scarcely exists amongst ourselves. The experiment in Scandinavia has been of too partial a character to be of much value in helping us to solve the liquor problem in this country.

The system has, however, many advocates in Scandinavia. Nor is it to be wondered at. The Bolag is a great deal better than the wretched system which preceded it. It is even better than much liquor selling that goes on now. The Scandinavian liquor laws are not strict and the beerhouses especially are conducted with extreme laxity. No wonder if sometimes good men think that it would be better to extend the Bolag methods to the sale of beer. With the majority, however, it is probable that the greatest recommendation that the Bolag has arises from the fact that it brings a substantial annual income to the civic treasury. It places the inhabitants of the

towns in a position of advantage as compared with residents in the country. We have explained that the rural communes prohibited the sale of bränvin within their borders. Such of the residents in the country, therefore, as drink bränvin must buy it in the towns, and each Bolag draws its customers from an area extending sometimes many miles outside the civic boundary. The profits, therefore, upon the bränvin monopoly are considerable, and they are enjoyed very largely by the residents in the towns, who are only a fraction of the population. In Sweden the profits are chiefly directed towards the relief of rates, in Norway towards objects of a more philanthropic character. Practically it is found to make little difference. Whether the citizen's pocket is saved in one way or another is immaterial. The elaborate arrangements which are proposed by advocates of municipalisation for safeguarding the expenditure of the drink profits are puerile. Every citizen has a certain amount of spending money. Whether his pocket is saved in the matter of rates, or taxes, or his hospital subscription, or the wages of his cook, is immaterial.

Naturally enough the towns are loth to sur-

render the profits which they acquire from the spirit monopoly. They would indeed gladly add to them, and efforts are made to persuade the Government to extend their monopoly to beer. The laxity with which beerhouses are conducted is a good excuse, but the strongest reason with many is probably the hope of further gain. At present Gothenburg draws from the spirit monopoly for the relief of rates about £30,000 annually. If the municipality had a beer monopoly as well, the citizens would sit rate free. Not that the Bolag could personally work the beer trade any more than it now works the spirit trade; but instead of being a wholesale spirit merchant it would become a wholesale wine, beer, and spirit merchant with revenues to correspond.

There is, however, little probability of any extension of the Bolag in Sweden or the Samlag in Norway. The method is of course unfair to the rest of the taxpayers. It is more likely that the British system will be adopted, that the monopoly will cease, and an excise tax be substituted, so that the incidence of taxation may be uniform in town and country.

At present the companies are chiefly of value

to ratepayers—that is, to the wealthier citizens. When plebiscites of the people have been taken they have been unfavourable to their continuance. In Bergen quite recently the citizens compelled the Company to close its spirit bars, declaring that if they refused they would abolish the Company altogether.

Having now considered the precise position which the Gothenburg system occupies in the country of its birth, we are in a better position to consider how municipalisation would work in our country.

The chief arguments put forward in its favour by its advocates are as under.

(1) *Municipalisation would make Reforms more easy.*

It is claimed for the Gothenburg system that it destroyed the abuses which formerly existed in connection with the sale of brännvin, giving of credit, pawning, and the like. The number of spirit shops was reduced, the hours were shortened, and the age for serving children was raised to eighteen years instead of fifteen as prescribed by the law.

This is all true, but it has very little to do with municipalisation and very little application to this country. We have already got rid of these evils. Debts for spirituous liquors consumed on the premises have not been recoverable for a century and a half, and the taking of pledges was made illegal at the same time. Debts for malt liquors have not been recoverable since 1888. The trade is now a ready-money trade, so far as drinking on the premises is concerned. Occasionally in the country a publican may be lenient with a known customer, but this would happen under any circumstances, and hardly amounts to an evil. In the towns, except perhaps during a strike, no credit is given.

The Gothenburg municipality, acting in concert with the Company, reduced the number of spirit shops. Had they desired to do this in the interests of temperance, they could have done it with equal ease before, seeing that they were in the habit of selling the licenses by auction. The reason of the reduction, when it did take place, was that, as all the licenses had been acquired by one Company, the same trade could be carried on with fewer houses. The smaller ones were

accordingly shut up and larger ones in broader thoroughfares were substituted. This kind of reduction has been going on in English and Scotch cities for a good while. As regards Scandinavia it must be remembered that the habits of the people have been changing and that beer is displacing spirits as a beverage. The same municipalities which have reduced the number of spirit bars have allowed hundreds of beerhouses to spring up, looking upon beer, in fact, as a temperance drink.

As regards reduction of hours, it only means that, seeing that the trade of the Bolag is wholly a working-man's trade, there is no need to keep open after the men have gone home from their work. The shortening of hours only applies to the spirit bars already described. The hundreds of public-houses, restaurants, cafés, and hotels in the city, which sell drink of all sorts, keep open, many of them until midnight. In fact, there are premises belonging to the Bolag where the working-man's bar closes at seven, and the liquor saloon upstairs, frequented by a slightly superior class, keeps open until eleven. The conditions of life are entirely different in the two countries. In

Britain Jack is as good as his master, and the same rule must apply to all.

With regard to the raising of the age for serving children to eighteen, it amounts to little. It only applies to the spirit bars, and there is not much credit in refusing to serve spirits drunk neat to boys. It is pretended that the Bolag is ahead of England. This is not so. It is true that English law fixes sixteen as the age under which spirituous liquors may not be served for consumption on the premises, but it goes further, and refuses to permit children under fourteen to be used even as messengers to fetch liquor for others, unless it be supplied in corked and sealed vessels not containing less than one pint. In this particular Great Britain is ahead of all other countries.

But the great thing to notice is that not one of these reforms has any necessary connection with municipalisation. We have got them in Britain without it, and though they may at times have come slowly, yet when they have come they have applied uniformly to the whole country and to all classes of the people.

The contention that municipalisation lends itself

to reform receives very little countenance from Swedish Parliamentary papers. From these we gather :—

(*a*) That 87 towns out of 102 had by 1893 adopted the Gothenburg System.

(*b*) That instead of the system attracting honourable and unselfish citizens to join the companies, 14 companies had only three shareholders each, and eight companies had only two shareholders each.

(*c*) That, instead of properly managing the licensed houses, the companies in 34 towns had farmed out to publicans every "indoor" license in their towns, while three companies had sold the "off" licenses as well, and were simply monopolist brokers.

(*d*) That many companies allowed their directors or managers a commission on all the ardent spirits they could sell.

(*e*) That various town councils had corruptly conspired with the companies to cheat the State out of its percentage.

(*f*) That some had sent agents into rural districts which had vetoed the traffic to tempt the people to purchase spirits.

(2) *Municipalisation would cause laws to be better observed.*

It is not the case that laws are better observed in houses belonging to a municipality than in houses managed by private licensees. The contrary is true. The municipal police, stern with the private trader, are lenient with the municipal public-house. During ten years no proceedings were taken against Bolag houses in Gothenburg, although 8,310 persons who last drank at Bolag houses were convicted of drunkenness.

"When a corporation of a moderate-sized city is receiving £35,000 a year into its treasury, and employs a staff of police, and these public-houses are looked to for, and are essential to the continuance of the revenue, the police are not likely to be too active in tracing the permitting of drunkenness. Municipal control induces police paralysis."

It is quite a mistake to imagine that the law is broken to any serious extent in British public-houses. The publican and his owners have too much at stake to allow of this being done. The business is an exceedingly difficult one, and breaches of the law occur at times, but rarely with the publican's connivance.

Undoubtedly there is a certain amount of betting in public-houses of a class. But betting is an evil capable of taking root in any soil. There is more betting in shops and in clubs and even in the open street than on licensed premises. And there is no reason to believe that a municipalised public-house would be free from it.

The law may also be broken by serving customers during prohibited hours or by giving more liquor to those who have already had enough. The former happens very rarely in England, and when it happens is followed swiftly by condign punishment. The latter is an evil inseparable from the sale of strong drink, and the description already given of a Bolag spirit shop shows that the evil is as great in Sweden as it is here. An English publican is every whit as careful as a Bolag manager. If the latter has not to think of his profit, the former has to think of his license.

(3) *Municipal Managers have no need to push Sale.*

We need not dwell upon this argument. If those who use it believe in it, it only shows how simple-minded they are. Brewers and distillers

advertise their wares, not publicans. The most that the owner of a public-house can do is to put in some popular man, an old footballer, or cricketer, or pugilist, as manager. Municipalities would do the same.

The notion that a man enters a public-house not very sure whether he wants to eat or drink, and, if the latter, not very sure whether he wants a pot of four-ale or a bottle of ginger-beer, can only find a place in the minds of those who have not become acquainted with the rudiments of the subject. Experience proves that in this matter persuasion counts for little. Whether the manager has a commission on the alcoholic or non-alcoholic drinks the result is about the same. People do not drink to please the publican. But personality counts for much. A popular, "jolly good fellow" will draw custom to his house, whether he is an ordinary publican or manager for a municipality.

(4) *Municipalisation will secure a Divorce between Politics and the Liquor Traffic.*

It is to be feared that the very opposite would be the result. It is bad enough to have members

of Parliament returned in the interests of liquor. But, after all, members of Parliament are mostly engaged with work of an Imperial character. The influence of a Town or County Council bears more closely upon the lives of the people. Hitherto these Councils have not had much personal connection with the liquor traffic, which has been mainly controlled by Parliament and by the justices. But were municipalisation introduced, and were any serious attempt made by the municipalities to reduce the consumption of liquor, the brewery and distillery companies would at once set to work to fill our municipal councils with their nominees. The result would be disastrous in the extreme.

But it is said there is no political menace from the Trade in Scandinavia. Why should there be? The political menace in Great Britain has nothing to do with private ownership of public-houses. It arises from the fact that a powerful band of reformers, mostly associated with one of the political parties in the State, have avowed their intention of materially reducing the consumption of liquor. The Trade have risen in arms against this policy. Their dividends are threatened.

They care little what methods are adopted so long as the liquor is sold. Whether a municipality sells it, or a public-house trust, or an ordinary publican is immaterial. Now it happens that in Scandinavia the consumption of liquor is steadily increasing. Gothenburg is perhaps the most drunken city in the world, and Stockholm, Christiania, and the others are not far behind it. Why should the Trade complain ?

The Temperance Movement in Scandinavia is yet in its infancy. Wine and beer are temperance drinks, and the man who does not drink bränvin neat is a moderate drinker. When the temperance movement has begun to make itself felt, and drastic reforms are demanded by the people, the Trade will bestir itself, and the menace will begin.

(5) *Municipalisation will secure for Public Purposes the Profits of the Retail Trade.*

The hope of gain is sedulously dangled before the eyes of the British citizen by advocates of municipalisation. Like the other arguments, however, this is illusory.

The Scandinavian municipalities make a certain

moderate gain out of their monopoly, but only because the excise tax upon spirits is extremely low. In Sweden the manufacturer pays 2s. a gallon, in England he pays 11s. Were the excise tax in Sweden 11s. a gallon, the municipal profit would probably largely disappear.

Were municipalisation adopted in Britain, and the excise tax kept at its present figure, the probability is that it would result in a heavy annual loss.

The margin is much less than is generally believed. The "enormous monopoly profit" of the retail trade is imaginary. It is estimated that the retail profit on the sale of liquor is £20,000,000. This seems considerable, but when it is divided over 150,000 licenses, it proves to be an average of less than £3 weekly. If this is all that can be made by skilled publicans who thoroughly understand their business and are credited by the advocates of municipalisation with not being over scrupulous as to how they push it, is it likely that municipal managers working, we presume, on quasi-philanthropic lines will do as much? Is it not more likely that the balance will be on the other side?

Moreover, the question must be asked, How do the advocates of this system propose that the public-houses are to be acquired? Do they propose that the municipalities should buy out the present owners or that they should acquire the houses without payment? If they propose to buy the houses, then the municipalities will begin business with such a financial burden that failure is certain. On the other hand it would seem hardly fair to take away a man's business without payment and then carry it on yourself. To refuse a license because it has ceased to be for the public benefit is one thing, to forcibly take his license in order that you may seize upon his gains is another.

Nor do these considerations exhaust the difficulties of the question. For we are led to believe that municipalisation will lead to an "extraordinary reduction in the number of drink-shops." If the municipalities are to have the pleasure of buying the drink-shops before they close them the matter is serious indeed. Even if they should acquire them free it is evident that an "extraordinary reduction in the number of drink-shops" will mean a substantial reduction in profits, and it

becomes yet more certain that the enterprise will be far from lucrative.

The fact is that there is no "enormous profit" in connection with the retail sale of liquor. The brewers and distillers have taken care of that. Public-houses are in the main merely distributing agencies, and few publicans make more than a living. The big sums paid for public-houses are paid or lent on conditions by brewery and distillery companies. They represent the value of the house to the brewer, not to the publican. Unless municipalities propose to become themselves brewers and distillers they cannot touch to any serious extent the profits of the liquor traffic. This has never been suggested nor would it be possible. Municipalities could not compete with the great brewing and distilling firms the reputation of whose liquor is world-wide, and has been built up generation after generation.

But now let us say that although the notion that English municipalities could work the retail liquor traffic at a profit is illusory, the excise tax being kept at its present figure, the profits already drawn from the liquor traffic in this country by the present method are truly enormous. There is

no country in Europe which knows so well how to deal with the liquor traffic.

In Sweden they raise about one and a half million pounds from liquor, in Britain we raise nearly forty millions.

The population of Scotland is less than that of Sweden, yet Scotland raises six millions, about four times as much as Sweden.

Of what financial advantage is the adoption of the Scandinavian method likely to be to us ?

But, say the advocates of the system, we have no intention of relinquishing the present revenue, we intend to add to it. Well, it might be possible to squeeze a few millions more out of the liquor traffic. But if this has to be done it had better be done through the Chancellor of the Exchequer. Only financiers who have studied the question in all its bearings can judge whether heavier taxation will bring more to the Exchequer or less. The taxing of liquor beyond a certain point leads to smuggling and shebeening, and the drinking of fluids worse than alcohol. And sometimes in England it has led to rioting and murder.

The method of raising taxation from liquor

that has been adopted in Great Britain is the best that could be devised. We do not trouble ourselves with the intricacies of the retail trade, nor do we encounter its risks. We go straight to the manufacturer and collect the tax in large sums, and therefore with the utmost economy. The Trade has now adjusted itself to this method of collecting. The man who makes the profit pays the tax, the public-house is merely his counter, the publican his salesman. Our municipalities can gain nothing by taking the publican's place and becoming salesmen for the manufacturer. This is all that municipalisation would mean.

We have now considered the arguments which are generally advanced by those who desire to substitute municipalisation for our present licensing system, and without professing that our present system is perfect, we can yet see that any change in the direction proposed would be perilous in the extreme.

Let us now ask in conclusion whether the proposed change would be likely to bring about such moral improvement as would justify us in running the risk. For if we thought that the people would become better and more temperate

under municipalisation than under the present system, this consideration might be permitted to outweigh many arguments. But there is no hope of this. All experience shows that the Gothenburg System does nothing for sobriety. Under wiser laws rural Scandinavia has become sober. Drunkenness has almost disappeared from many country districts. But under the Gothenburg system the towns are as drunken as ever. Tested by every conceivable standard—by arrests, by convictions for drunkenness, by pauperism, by deaths from alcoholism—the Scandinavian towns lead the van. After thirty-five years of its system Gothenburg remains one of the most drunken of cities. No city in England, and only one city in Scotland, approaches it in this respect. Surely, we may ask, what our country is likely to gain from a system which promises such results.

Quite recently proposals in favour of that which is called "disinterested management" have been brought forward by certain temperance advocates. "Disinterested management" is simply the Gothenburg system with "safeguards," the worthlessness of most of which

has been already proved. To combat these suggestions would be to repeat this chapter, but we may say in brief:—

1. If the advocates of the system will show us a disinterested community we may begin to believe in disinterested management. The idea that a community will take infinite pains to manage the liquor traffic and then be willing that its hard-earned profits shall be divided with the rest of the world, "not in proportion to the profit made or the quantity of liquor sold, but in proportion to population, and so that localities in which the sale of drink has been vetoed altogether shall receive their share, although they have made no contribution to it," argues a faith in the benevolence of human nature which we do not share.

2. The advocates of "disinterested management" do not seem to have taken the continued existence of the wholesale trade into their calculations at all. They have surrounded their scheme with a few prettily trimmed hedges which the Trade would quickly trample in the mire, if indeed any of them escaped the axes of Parliament. Not one of the safeguards proposed would

be of permanent value, nor can such a system be safeguarded in communities of selfish and fallible men. Were "disinterested management" introduced, the wholesale liquor trade would turn its now enormous resources against our local councils and capture them. In a few years the Trade would rule local politics, and the last state of the country would be worse than the first.

It is needless to further pursue this subject. The Gothenburg System, whether presented to us under its own name, or under the name of municipalisation, or under the name of disinterested management, has been a failure at home and would be a failure abroad. In Gothenburg it supplanted a system which was yet more injurious than itself, but we in this country are already upon a much higher platform. Our method of dealing with the liquor traffic is not perfect, but it is infinitely better than anything that Sweden can show.

CHAPTER XII

PUBLIC-HOUSE TRUSTS

THE Public-house Trust is akin to municipalisation, but not the same. In municipalisation the licensing authority and the licensee are the same. In Scandinavia this does not seem to be so, but the difference is apparent rather than real. The municipalities there work through the medium of companies. But this is merely in order that they may bring themselves within the Act under which they operate. There is in that Act nothing about municipalisation, but there is a clause permitting a municipality to sell their spirit licenses to a single company ; and so, in the guise of a company, municipalisation has been introduced.

Now where Public-house Trusts are concerned the licensing authority and the licensee are not the

same. The Trust company must come to the authority for their license, and must apply for renewal at the end of twelve months like any ordinary publican. During the year the company's house would be presumably watched like other houses and irregularities would be reported by the police.

These facts make an essential difference between the Public-house Trust System and municipalisation. Were we quite sure that the licensing authority would act in a thoroughly impartial spirit when asked to grant or renew a trust public-house, there would be much less danger in connection with the system. In municipalisation the danger is very real. The licensee is independent of control, practically a law to himself.

In the preceding chapter we dealt with the municipalisation of the liquor traffic, and endeavoured to show some of its dangers. These dangers are inherent. The community that adopts municipalisation practically accepts alcohol as its overlord. It enters definitely into partnership with the drink traffic and opens the door to many abuses.

This may not be so in connection with the Public-

house Trust System. It also is dangerous, but the danger depends upon circumstances. If the company can be kept in its place and upon its good behaviour it need not do much harm even if it does little good. But if it rallies round it so powerful a list of trustees and directors and sympathisers, that the licensing authority is unable to act with impartiality, then we may have the evils of municipalisation without its protections.

The Public-house Trust system may be said to have been begun in England in 1896, when the People's Refreshment House Association was formed. It was hoped that landowners might be willing to apply the Gothenburg principle to houses on their estates and that the existence of this Association would give them an opportunity.

The Association has acquired in various ways twenty-two houses, and apparently works them well. The salient features of the Association houses are declared to be the paying of the manager by salary, allowing him a commission on temperance refreshments, and supplying good liquor. The futility of these claims has already been dealt with. They amount to absolutely

nothing. The commission on temperance drinks is so trifling in amount as to be neither here nor there, and payment by salary and the supply of pure liquor are not by any means uncommon in ordinary public-houses. The idea that any good can be done in these ways is a delusion. As regards reforms of a tangible nature, such as closing on Sunday and the like, nothing has been done. The Association declares its reluctance to proceed in advance of the licensing law. For an Association supposed to have been conceived in the interest of temperance this seems strange. One good thing must be said for it, however. It has never added to the number of licenses in a locality. This is decidedly to its credit. For the rest, except that it manages its houses respectably, there is little that can be said. The houses owned by it are chiefly in the rural districts. When dividends are paid and expenses of working met, the surplus left for works of public utility or charity is quite insignificant.

Isolated experiments have been made on similar lines in various parts of England.

The Fox and Pelican at Grayshott, in Hampshire, is run by a local trust. The house is

well built and attractive in appearance. Games are encouraged and newspapers supplied. A somewhat rough class live in the neighbourhood, the "broom squires" of the Devil's Punch Bowl. The public-house has, therefore, proved hard to manage. The profits have been insignificant.

The Elan Valley Canteen in Radnorshire was established by the Birmingham Corporation, and the Scargill Waterworks Canteen by the Harrogate Corporation. The houses were opened for the use of the navvies employed on the works. Canteens can generally be worked to a profit. As a rule they pay neither rent nor rates, are managed very economically, and have a virtual monopoly. The Canteens we have mentioned were financially successful, but they teach us nothing of any value.

Passing to Scotland for the moment we have to note various experiments.

The first was at Hill of Beath, in Fife, where the Coal Company believing a license inevitable thought it best to themselves apply. They founded therefore, in 1900, the Hill of Beath Tavern Society, Limited, and the public-house

has since then been conducted on Gothenburg lines. The house is the only licensed house in the village, but there are other public-houses less than half a mile away.

The profits are substantial and have been devoted to objects of public utility in the village, such as the electric light, a bowling-green, and a reading-room. No games are carried on in the house, and the bowling-green is some distance from it.

The Kelty Public-house Society followed with closely similar rules. There was not the same excuse for this house as there were already several public-houses in the village. The profits are substantial.

The same may be said of houses at Standburn and Newtongrange.

The four houses last mentioned are situated in mining districts and strongly backed by the mine-owners. They have a virtual monopoly in three of the villages. Under these circumstances their financial success was assured. They lay no claim to having decreased the consumption of alcohol. The evidence is, in fact, entirely the other way. In places where model public-houses have been

established there is more drinking than ever. It is to be feared that this will be the result of the development of the trust system. There is absolutely nothing in the nature of the new method to incline any one who does drink to drink less; but there is much to tempt into the public-house those who formerly would not have entered.

The success of the single house trusts in Scotland has led to larger effort, and companies have been registered for Renfrewshire, Glasgow District, and the East of Scotland. These have considerable capital and number many justices amongst their directors and shareholders. They have carried on a vigorous campaign, but have not obtained many licenses thus far.

Returning now to England we find that in 1901 a Public-house Trust Company was formed for Northumberland. Immediately after, Kent, Durham, and North Yorkshire formed companies.

The Central Public-house Trust Association was formed the same year. Its founder thus declares its objects. He says it is meant "to promote the establishment of separate county trust companies, with the object of providing an organisation for

taking over and managing, in the interest of the community, every new license which might be created in any part of the United Kingdom, and thus building a ring fence round the public-houses and beershops."

Though only two years old the Central Public-house Trust Association has made much progress, only five counties in England being now free from trust companies, Wales and Ireland have also companies. Its operations have attracted attention in the colonies and the German Emperor has requested that his ministers may be furnished with its reports.

More than £4,000 has been spent by the Central Association in propagandist work, 114 licenses are now under trust management, and the rate of growth is about one per week.

Considering the amount spent in propaganda the progress does not seem great. Apparently, however, it gives satisfaction to the Central Association, and the following reasons are given for the widespread recognition of the trust principle.

(1) That the public-house is a public necessity,

and therefore it is desirable to convert it from a drinking bar into a well-conducted club.

(2) That the profits should be secured to the public.

(3) That under the present system it is to the publican's interest to press the sale of alcoholic liquors. That the trust manager presses rather the sale of food and non-alcoholics, that he supplies pure and wholesome liquor, and declines to supply those who have already drunk enough.

The claims under the third heading have been discussed *ad nauseam*. There is absolutely nothing in them, whether it is municipalisation or the public-house trust system that is in question.

The two first claims are substantial and they comprise all that can be said in favour of the public-house trust system.

Dealing with the first we may grant that the public-house has forced its roots deeply into British soil. We may further grant that Britons will drink whether we like it or not. And we may go further still and grant that every village should be provided with a place where the in-

habitants might meet and enjoy themselves in a rational way. But when all this has been granted it has not been proved that these things need necessarily hinge upon the open door of a liquor saloon.

In the prohibition districts of the United States and Canada, which we have already described, the people are by no means ascetics. They have just as keen a sense of enjoyment as people have anywhere else, but they can meet and amuse themselves without spending money on drink. If they want to drink they drink at home, against that there is no law.

There should be no necessary connection between recreation and liquor. In our English Universities the afternoon is regularly spent by the men in recreation of every sort, but there is little or no drinking. The athlete after his hard exercise returns to his rooms and has tea, rarely anything alcoholic.

Had the Central Public-house Trust Association determined to establish a well-conducted club in every village and kept it apart from liquor they would have done a great work. As it is they will only succeed in increasing the already too

numerous temptations by which men and women are surrounded.

One of the founders of the association in describing a visit to their house at Trentham, says :—"On the day of my visit, a party of over eighty lads and girls were enjoying games in the garden before having tea in the large room. The hall and bar were thronged with other callers, some taking alcoholics, others sitting down to lemonade and the like."

The inspector was gratified by this spectacle ; but there is a good deal in it not quite reassuring.

Moreover it must not be forgotten that it is equally possible for an ordinary public-house to make provision for games in order to attract customers. Hitherto it has been the policy of the magistrates to check these things, as in Birmingham, where air-gun clubs have been forbidden. But, if trust houses are to be permitted to attract in this way, ordinary public-houses cannot be prevented.

The noble lord at the head of the Association states that "the only serious objection which has been urged against the Public-house Trust is that

although it may diminish excessive individual drinking, it may tend to increase the national consumption of drink."

If there is anything in this objection, and we fear there is a good deal, it would seem an unfortunate result to arise from a quasi-benevolent Association.

The second argument is that it is desirable that profits upon the retail sale of liquor should be secured to the public.

We have pointed out in the preceding chapter that the amount already extracted by the nation from the sale of liquor is enormous. Should it be considered inadequate the safest way to obtain more would be by slightly increasing the Excise duty. This can not be done to infinity, but it can be done up to a certain point. So long as the nation obtains the money from the Trade it comes to the same thing so far as the profits of the Trade are concerned, but from a national point of view the present method of collecting is the most economical and the most safe.

In the last chapter we stated that the profits on the sale of liquor are not made by the publicans,

but by the shareholders of brewery and distillery companies, for whom the publicans are merely distributing agents. This view of the case is supported by such experience as the Trust Companies have already acquired. Unless in exceptional places where their houses have a virtual monopoly, the Companies are only just able to pay their interest. The sums spared by the majority of the houses for public purposes are quite insignificant. This will be better realised as time proceeds, and will prevent any great development of the system.

Having now noticed the growth of the Public-house Trust, and commented upon what appear to be the chief arguments in its favour, let us glance at some of its dangers.

(1) It may use its influence to obtain licenses which would not otherwise be granted.

Its founder states that there are only five counties in England "whose lord-lieutenants and other leading gentlemen have refused support" to the movement. This seems somewhat ominous. We hear a good deal of the political menace of the drink traffic, and not without reason. One protection we have had, however, the independence of

the licensing bench. This is now menaced. It will not be easy for justices to refuse a request pressed by "lord-lieutenants and other leading gentlemen." It may be said that this influence will not be unduly pressed, but experience shows that it is pressed at times for all it is worth. Of late there has been a tendency on the part of magistrates to refuse new licenses. It is recognised by all that there are too many licenses, and the tendency has been to take advantage of every opportunity of reducing their number. It would be a misfortune were Public-house Trust Companies to obtain, by means of the extraordinary pressure they can bring to bear upon the magistrates, licenses which would be refused if applied for by private individuals.

(2) The influence of the Trust system may tend towards greater laxity of supervision.

When the lord-lieutenant and other county magnates are interested in a public-house a humble policeman would be more than mortal did he not wink at its shortcomings. We have already seen how this is in connection with municipalisation. The advocates of municipalisation are pleased to call it "the control system." It is precisely the

opposite. The police are sharp upon the private licensee, but indulgent towards houses belonging to the municipality.

It is possible that even the Bench may find it hard to avoid showing indulgence. The power of the justices over licenses is annually exercised, and is supposed to be exercised with vigilance, but instances have already occurred which make it doubtful whether this vigilance will be used in the case of public-houses so influentially supported. If benches at times find it hard to refuse to grant a license thus backed, how much harder will it be to refuse renewal, and thus bring discredit upon the lord-lieutenants and other leading gentlemen who are interested in the public-house.

Nor will the matter be easier to decide with judicial impartiality if the Trust house is supplying funds for public or benevolent purposes. These considerations can scarcely fail to enter the minds of even the best of men, and to influence their decisions.

(3) The model public-house of the Trust Company will increase drinking.

Of this we fear there can be little doubt. There is, so far as one can judge, nothing what-

ever in the proposed methods of the Trusts that is likely to decrease drinking. Suggestions about pushing sale in an ordinary public-house may be set aside, for even were this the habit the most that a publican could do would be less than the attractions which the model public-house will furnish. The new method, so far as it is successful, will tend to Continentalise our drinking. The drinking bar is to be turned into "a well-conducted club," to which, judging by the description given above, all classes and both sexes will repair. Whether this will result in greater individual drinking may be questioned, but unquestionably it will result in more general drinking. The national consumption of liquor will be increased. On the Continent the average consumption of alcohol per head is much higher than with us. Restaurants and cafés, much on the lines of Trust Companies' houses, are to be found everywhere, and men, women, and children frequent them freely. But the conditions of Continental life differ greatly from ours. The air is clear and the weather fine for many months in the year, so that the people can almost live out of doors. They are accustomed to drink very light liquor,

whether beer, or perhaps wine grown in their own district. Accordingly, though they drink freely, they do not become intoxicated. The aggregate consumption of liquor is great and there are many attendant evils, but there is less open drunkenness than with us. The Public-house Trusts are endeavouring to introduce the Continental public-house, and if they could at the same time introduce the Continental climate and the other ameliorating influences of Continental life, some good might result. As it is, we fear that the only result will be harder drinking.

Apart from these considerations it is probable that the co-operative character of the Trust Public-house will help to increase drinking. Very little inducement is needed to lead men into a public-house at the best of times, but when to ordinary persuasion this is added—that the profits are to go to the bowling-green or the hospital—drinking is disguised as a virtue, and drunkenness becomes a form of patriotism. Just as in the case of municipalisation, it is dangerous to allow citizens to embellish their towns with the profits realised from the liquor traffic, so, also, it is dangerous to identify the interests of benevolent or recreative

institutions with its sale. In both cases laxity of management and increase of consumption are the natural results.

(4) The model public-house will do nothing to advance reform.

Greater probability of reform is held out as a likely result of the Trust System, but there is little foundation for the belief. With whatever zeal the men who have invested their money in Trust Company's property to-day may be inspired, they will not last for ever. Gradually their 5 per cent. stock will pass into the hands of others who will not share their enthusiasm. Sooner or later Trust Companies will become mere trading concerns with a 5 per cent. dividend; they will be owners of licensed property just as brewery and distillery companies are owners. Like these they will dread any legislation which will reduce their sales, or imperil their monopoly, or impair the value of the premises they have acquired. These considerations will not make for reform.

Nor does our experience of the model public-house lead us to any different conclusion. There are 114 houses under Trust management, but we

have yet to hear of any house where serious reforms have been introduced.

To suggest that refraining from giving credit, or refusing to serve drunkards, or ceasing to press the sale of alcohol are reforms is absurd. Most of the public-houses in the United Kingdom are conducted upon these lines. Do the Public-house Trust Companies' houses open later in the morning, or close earlier at night, or refuse to sell drink on Sunday? The first house that was started on the new lines was at Hampton Lucy, in Warwickshire. The house belonged to the squire, and when the method of management was changed, the on-sale of spirits was abolished. How many of the Trust Companies' houses have followed this excellent example? We fear that the explanation given by the People's Refreshment House Association might be given by all. They prefer not to proceed in advance of the licensing law.

It is, indeed, to be feared that the interest of the Trust Companies will be retrograde. Both in London and in the provinces they have endeavoured to keep licenses alive that were threatened with extinction; they have repeatedly

applied for new licenses where there was already congestion, and they have pressed for licenses in new districts against the declared wishes of the inhabitants—they have shown, in fact, that reforms can only be considered after the 5 per cent. dividend has been made secure.

To save misapprehension, it should be explained that the numerous Trust Companies now formed in England are independent of the Central Public-house Trust Association. The latter is, in the words of its president, "a missionary propagandist body depending on voluntary subscriptions." As to the excellent intentions of the Central Association there can be no doubt. But over the Trusts formed under its auspices it will have little control, and these will depend, not on voluntary subscriptions, but on shareholders who will expect that their dividends shall be paid with punctuality.

(5) The Trust System will end in making the liquor traffic more powerful than ever.

We have explained in our last chapter that the political menace of which we justly complain in Great Britain arises from the fact that reformers threaten to reduce the amount of liquor consumed.

The Trade has no quarrel with the law nor with the reformer so long as there is no diminution of the quantity sold. Decreased consumption means decreased dividends, and against this only the Trade is in arms. Moreover, the power of the Trade has of late greatly increased from the fact that their shares are widely distributed amongst all classes. The political influence of the publican is now feeble in comparison with the influence of the shareholder, from whom, in great measure, the political menace arises. It is not easy to see how this menace will be lessened by adding to the already enormous list of brewery shareholders a fresh list of Public-house Trust Companies' 5 per cent. preference shareholders. With whatever excellence of motive the Trust may begin, it will undoubtedly eventually form a business organisation and be managed on purely business principles. Something has been said about "putting a ring fence round the Trade," whatever that may mean. But there is no real antagonism between the Trade and the Trust. All that the Trade wants to do is to sell liquor, and the Trust will not only sell liquor freely, but will find new customers to whom it may be sold. Every gallon sold by the Trust

will bring profit to the Trade. The interests of the two are at present parallel, and in time they will merge. Already brewers are admitted to the directorate of the Trust Company, and there is no reason why they should be excluded, for the brewer and the Trust shareholder are equally interested in the success of the model public-house. As time advances this will become more evident until we shall find that the "ring fence" is merely another line of fortification, and that the liquor traffic has become more firmly entrenched than ever.

CHAPTER XIII

THE HABITUAL INEBRIATE

IT is far from easy to decide how to deal with the habitual inebriate. It is not even easy to determine how to classify this unfortunate being, either morally or physically. Some would treat intemperance as a breach of the moral law, a vice for which a man is personally responsible, and the practice of which he can at will abandon. Others look upon inebriety as a disease allied to insanity. They believe that the inebriate is more sinned against than sinning, that many are so constituted that to drink in moderation is beyond their power, and that "to impute immorality, vice, and sin to that inebriate for his physical inability to stop at one glass is as unjust as it would be to impute immorality, vice, and sin to the idiot for his

idiocy, or to the hereditary epileptic for his epilepsy."

There is truth in both contentions. If a man is the offspring of drunken parents, is born with a weak will, and has throughout his youth had an evil example set before him, his chances of keeping straight are small; nor can we judge him severely if he falls. With him the temptation to drink is almost irresistible. But so long as sanity remains it is not quite irresistible. No drunkard need pity himself and say, "I am so constituted that I cannot abstain."

There are few men who cannot abstain if they will, and total abstinence can be instantaneously practised by the greatest drunkard with perfect safety. This is demonstrated by experience in our gaols and police-courts. A day rarely passes in which drunkards are not imprisoned and made total abstainers with startling suddenness, and when the imprisonment is long enough to make any difference, the physical advantage is always marked. If a man can be safely made an abstainer by the policeman he can be safely made an abstainer by the exercise of his own will. If he drinks he does it deliberately, not under compulsion.

It is well to realise this. Even if it may lead to harsh judgment at times it is the safer side on which to err. Most temperance workers know from experience that the most confirmed drunkard, always assuming that his reason is still left to him, can, by an effort of will, abstain.

This affects the question materially. The impression is widespread that there are numbers of inebriates who are anxious to reform but who have not the power. Homes are provided for these, and it is thought that the homes have only to be opened to be filled. But they are not filled, and patients are obtained for most of them with difficulty.

The fact is, that there are comparatively few inebriates who have any burning desire to reform. They would willingly avoid the consequences of drinking, they would like to prosper in business, and to be reinstated in society, but, if they must choose between these good things and drink, they prefer the drink. Were it otherwise, were they determined to reform, they could reform.

This is the root difficulty in connection with the habitual inebriate. His friends see his danger but he sees none, or if he does he prefers to run

the risk ; his friends desire that he should abstain, but he declines to recognise the necessity. Accordingly, when a retreat is spoken of and it is suggested that he should sign away his freedom before a magistrate, he refuses. Sometimes friends are able to bring pressure to bear upon him. Perhaps pecuniary supplies can be stopped, or, in the case of a married woman, a separation order may be threatened by her husband and consent may be thus obtained. But the number of inebriates who agree to "voluntary" detention without the exercise of *force majeure* is extremely small. Nevertheless there are a few who, influenced perhaps by religion, or moral argument, or some striking experience, or the ruin which menaces them, determine to pull themselves together and to avail themselves of the protecting influence of a retreat for a time. These are the best of the patients, the satisfactory cases. But persons who have got thus far might, as a rule, go a step further and abstain without entering any retreat at all.

Detention in a retreat may, however, be a benefit even to unwilling patients. Generally speaking, the man who enters a retreat impenitent remains impenitent, and drinks again as soon as he

gets the chance. But it is not always so; some patients have, perhaps for the first time in their lives, time to think. If the retreat is a good one they are subjected to good influences. They are under medical treatment and body and mind recover tone. And at the end of the period they leave the retreat with a determination to redeem the past. This does not happen often, but it happens in a percentage of cases, and the percentage is worth working for.

English law may be said to have first taken cognisance of the habitual inebriate in 1879, when legal machinery was provided for homes or retreats, which might be licensed, and have two classes of patients, purely voluntary ones, and persons who had signed requests for detention for specified periods in the presence of magistrates.

In 1898 the law went further, authorising the establishment of reformatories to which magistrates might send persons who had come within the grasp of the law, giving them their option between the reformatory and the prison.

There are now four classes of institutions provided for the habitual inebriate.

(1) Unlicensed houses, not recognised by the State, not subject to inspection, and having no legal power to detain.

The patients in these are, of course, purely voluntary.

(2) Retreats licensed under the Acts, and subject to inspection.

There are 22 of these, the cost of residence varying from 5s. to £10 10s. weekly.

Of the patients some are voluntary, others have consented to legal detention for varying periods.

(3) Certified reformatories.

There are 8 of these, and they are suitable for persons who have come within the grasp of the law. They are sometimes established by the local authorities, and sometimes subsidised by them. The largest is at Brentry, near Bristol. It is certified for the reception of 200 females and 111 males. It limits itself, however, to a smaller number and is generally well filled. The next in size is the Southern Counties Inebriate Reformatory, at Lewes, in Sussex, which is certified for the reception of 120 females.

The persons dealt with in these reformatories are generally somewhat degraded, both morally

and physically, and for such a short period of detention is of little use. For these it is best that the magistrate should inflict an apparently heavy sentence, perhaps even as much as two or three years' imprisonment. The convict is then sent to the reformatory, and at the end of twelve months his case is considered. Should his record be satisfactory, he is released on ticket-of-leave. Should he give way again to drink he can be re-arrested and brought back to finish his sentence.

(4) State reformatories.

There are two of these, at Aylesbury and at Warwick, where wings of the prisons have been set apart for the purpose. To these are sent persons who have been convicted of crimes done under the influence of drink, for which prolonged imprisonment or penal servitude would be the fitting punishment. The ordinary inebriate, who has been convicted of drunkenness four times in twelve months, must be sent to a certified reformatory in the first instance, but may afterwards be changed to a State reformatory by order of the Home Secretary.

The Licensing Act, 1902, somewhat enlarged the power of the magistrates in the dealing with

the habitual inebriate and increased the list of offences which made forcible detention possible. The Act also made habitual drunkenness a ground for the granting of a separation order to either husband or wife. It gave the Court, however, power to commit a wife, with her consent, to a retreat, instead of granting a separation order to the husband. The sale of liquor to habitual drunkards was restricted by the Act.

Thus far the law has proceeded in the right direction, though somewhat slowly. It has been well supported by voluntary effort, and institutions are now provided in such variety that every kind of inebriate can be accommodated.

The one remaining difficulty is to get the inebriate inside the institution. In connection with this many difficulties have yet to be overcome. Some of these arise in connection with the humbler class of patients. On the one hand many magistrates hesitate to send inebriates to reformatories at all. It is easier for a magistrate to say "5s. and costs," and have done with it, and it seems more kind. It may not always be really kind, however, and as magistrates gain more confidence in the various institutions they

will send patients more freely. On the other hand even when a patient is sent he is not always received. Managers of certified reformatories are not legally bound to accept cases sent to them by the magistrates, and naturally enough they prefer to restrict the benefits of their institutions as far as possible to the amenable and hopeful cases. Nevertheless good work is being done, and we have reason to believe that so far as the treatment of inebriates who come within the scope of the law is concerned matters are in hopeful train.

The inspector under the Inebriate Acts concludes his latest report as follows :—

"We have eight certified and two State reformatories in existence, all doing excellent work, with a certainty of further additions in the near future. About five hundred of the worst possible characters are now in these institutions, receiving constant care and attention, all living sober, and, many of them, industrious lives. We are giving to such persons an opportunity of recovery which has been denied them hitherto, and which will convert some of them into decent members of society ; into wage earners, instead of burdens upon the sober section of the community.

We are relieving many hard-working men and women of untold misery, and at the same time preventing the exercise of an evil influence over a still greater number of young persons and children. We are reducing crime both now and for the future, and we are lessening street violence and disorder. I think it would be difficult to find a more useful work, one which more thoroughly combines economic principles with the dictates of science and humanity, or one more deserving of the fullest possible co-operation and support."

These very satisfactory remarks apply, of course, to the humbler class of inebriates with whom the inspector is specially concerned.

With regard to inebriates from a higher station of life, who are also unfortunately very numerous, there are grave difficulties. Not indeed that there is any lack of retreats for persons of this class, whether male or female. They are freely advertised, and they are at rates to suit every purse. Some of them are exceedingly attractive.

One, for ladies, "is built on sandy rock, standing high, with a commanding view of the surrounding country."

Another has "lovely views of the German Ocean. The grounds are very extensive, there being 130 acres for recreation, and 800 acres of low ground shooting; a stream flows through, and a lake is situated in the grounds, in which there is trout fishing."

A third has "fine reception-rooms, hall and billiard-rooms, &c." It has also "well-preserved shooting over 22,000 acres, containing large grouse moors, pheasant coverts, and enclosed rabbit warren."

A fourth offers on moderate terms "Healthy employment and recreation. Workshops. Poultry farm. Gardening. Cricket. Tennis. Golf. Library. Music. Billiards," and so on.

These are examples of the more extensive retreats, but there are many others.

With all their attractions, however, many homes are only half full, and the number they contain bears but a small proportion to the number of inebriates in the country. They meet the demand, but they do not provide a sufficient remedy. There are substantial reasons why this should be so.

In the first place, it is not easy to persuade an inebriate to enter a home with the prospect of a

twelve-months' sojourn. A man of independent means may take a twelve-months' holiday and enjoy the fishing and shooting provided for his entertainment. But how is a clergyman, or a physician, or a merchant, or an office clerk to lay aside his work for a year ?

Apart from the discredit that will attach itself through life to a man because of his having been in a retreat at all, the probability is that when he comes out he will find his career practically at an end. The clergyman will be without a living, the professional man without a practice, the clerk without a situation. The artisan or day labourer is little the worse of a year's seclusion. He can find work at any time, and his comrades care little where he spent the previous twelve months. But for the man in a higher walk of life twelve months in a retreat may mean ruin.

It is considerations of this character rather than sheer obstinacy that often prevent men from entering retreats. They do not exist to anything like the same extent in the case of women, and therefore there are far more women than men in retreats. If some method could be devised by which the period of residence could be shortened,

though still efficacious, many more would avail themselves of it.

There is another reason why it would be desirable to shorten the period of residence were it possible. Prolonged residence in a retreat has sometimes a malign influence on character. However well the retreat may be conducted there is little to help any man in twelve months' practical idleness. In the certified reformatories the patients are kept at work, and as they belong to the humbler classes the work is much the same as that to which they have been accustomed. In the better-class retreats also every effort is made to persuade the patients to employ themselves usefully, but it is clear that where patients pay well for board and lodging they cannot be coerced. At the best anything they may do will be of the nature of busy idleness. At the worst the time is spent in lounging, in smoking, and in frivolous, if not actually vicious conversation. Hence a patient may leave a retreat after prolonged residence a worse man than when he entered it. There are good men in most retreats. There are also generally some very bad men, and it is not easy to differentiate.

Mr. Shadwell, a recent writer on this subject, puts the case bluntly but with much truth.

"Some at least, and generally the majority, are youngish men who have led idle, self-indulgent lives, devoted to amusement. They are cut off from their usual occupations and have no other interests to fall back upon. They lead a pathetically joyless existence, intensified by the consciousness that the world regards them as a species of social outcast, and they inevitably seek consolation in the demoralising contemplation of those who are worse than themselves. The sense of degradation is made supportable by the spectacle of an equal or a lower degradation, which tends insensibly downwards. A few days spent in this atmosphere seem like a nightmare: months of it must reduce to despair. The moral influence is exactly the opposite to that which inebriates require. The thing they need is the gradual restoration of their self-respect by the companionship of people who are not inebriates and whose example stimulates upwards. This is the fundamental dilemma of the problem, which has been entirely overlooked. The physical benefit of restraint in a home is neutralised by the moral

evil of its associations. The more reckless and degraded spirits set the tone, which tends to weaken the best resolutions. To use the words of a patient, 'You go in more or less of a gentleman and you come out a roaring, seething cad.'"

For all these reasons it is evident that prolonged residence in a home is not a thing to be desired if it can be avoided. If a system could be devised which would concentrate into a few weeks the treatment generally spread over twelve months it would be of great value to better-class patients. Many a man to whom twelve months' seclusion would mean ruin could afford to take a month's holiday. His clients or his customers might never know where he had been or what he had been doing. They would be pleased to see him looking so well after his holiday and would make no further inquiry. The evils generally incidental to residence in a retreat, the prolonged idleness, the galling surveillance, the corrupt companionship would be absent or greatly minimised were the treatment but for a month. Any system, therefore, which permitted of the period of detention being shortened should be welcomed.

It will, of course, be said that it is hopeless to attempt to cure inebriety in a few weeks. This is true—in fact, we may go further and say that it is hopeless to expect to cure inebriety at all. There is, properly speaking, no permanent cure for inebriety. The habit may be broken, physical conditions may be improved, self-respect may be restored, but one who has been an habitual inebriate can never be as he was in the early days before drink got the mastery. He can never be a moderate drinker. His only hope for the future lies in total abstinence. All that residence in a home can do for him is to tone up his system, lead him to see the path of true wisdom, and give him the will to follow it. He is not cured in any scientific sense. He only gets a fresh start. Sometimes a dipsomaniac takes a fresh start without any residence in a home at all. The writer has been acquainted with men who were as low down as men could well be, and who, influenced merely by persuasion and helped afterwards by encouragement, have signed the pledge and kept it. Some amongst these were men whom few managers of inebriate homes would have cared to trouble with. The notion, therefore, that no

man can be saved from inebriety without prolonged residence in a home is a mistaken one. Residence in a home may be most useful in the case of poor degraded creatures whose surroundings make rapid reformation almost impossible, but for the educated man it may be positively injurious. All that is really necessary in such a case is to bring the man to his senses, tone him up, and give him a fresh start. After that his future is with himself. If he yields again to the enemy he has himself to blame. Nothing short of imprisonment for life will prevent a man from drinking who is determined to drink.

The institution which was founded by the late Dr. Keeley, an American army doctor, who made inebriety his special study, claims to be able to shorten the period of detention necessary to give a patient a fresh start, with fair prospect of success, to from four to five weeks. The patient is put through a severe but perfectly safe course of medical treatment. He need not reside in the Institute but he must attend for inspection and treatment four times daily. The treatment is by hypodermic injection and is applied by medical experts. The Institute doctors confine themselves

to the care of the inebriety. In the event of any casual illness occurring to a patient while under treatment his family physician is at once communicated with.

About the success of this treatment where it gets a fair chance there need not be a shadow of doubt. Of course some men go to the Institute as they go to retreats, coerced by their friends, but having no serious intention of reforming. Neither an institute nor a retreat can permanently benefit such men. But if a man is in earnest the treatment gives him a chance. The patient enters the Institute, or is carried in, a wretched inebriate, trembling in every limb ; he leaves at the end of a month a different man, his head erect, his hand firm, the bloated appearance gone from his face, and with a strong distaste for alcohol.

Moreover, during the period of treatment he has not been sheltered from temptation. When he first enters the Institute the doctor will even give him alcohol if he demands it. But the craving for it rarely lasts over three days. At the end of a week the patient can be trusted to walk about London without a companion. At the end of four weeks he leaves the Institute in better condition

than he has been for many years and without any inclination to drink.

This method of treatment has therefore two important advantages—its brevity, and the fact that the patient leaves the Institute hardened against temptation.

Objection is sometimes taken to the treatment because the ingredients of the remedy are not divulged. Concerning this perhaps one might say—

1. That the medicine is perfectly safe. More than a million injections have been made almost without an accident.

2. It would not be for the public good that a remedy for inebriety should be too easily accessible.

3. One would imagine that with a little careful investigation English doctors might discover a remedy for themselves. Seeing the extraordinary advantages attached to a rapid cure of inebriety in dealing with the upper classes it would be worth an effort. Any method of treatment which will break an inebriate of his evil habits in a short time must always be of the greatest value.

Before leaving the subject of habitual inebriety it will be well to notice a belief which has sprung

up that intemperance is greatly on the increase amongst women. The belief partly arises from the fact that the majority of committals to inebriate houses are committals of women. But little can be argued from these figures. Committals depend on arrests, and drunken women get into trouble more often than drunken men. Moreover, magistrates hesitate to send the man, who is presumed to be the breadwinner, to a home, but do not hesitate to send the woman. Probably she is unmarried, but whether married or single her friends are glad to be rid of her. These reasons will always operate ; and those who are skilled in the matter are of opinion that the proportion of male and female committals may be expected to stand at one to four for some time.

It is cheering to learn, on the authority of the Government Inspector under the Inebriate Acts, that women are not harder to reclaim than men. There has been an impression that they were, and the impression was mischievous because it discouraged the inebriate herself as well as those who were dealing with her. So far, however, as the experience of reformatory workers has gone, there is no foundation for the belief. Rather indeed is

it the other way. In any case women are every whit as reformable as men, and if they are treated with kindness after their recovery they are not more likely to break down.

Finally, one may perhaps be permitted to say that in dealing with the habitual inebriate the attitude taken up by friends is of primary importance. Retreats would rarely be necessary were relatives unselfish, and the percentage of success would be greatly increased.

CHAPTER XIV

ALCOHOL IN RELATION TO SOCIETY

IT is well to realise that drink is not the only source of evil in the world. Surrounded as we are in this country by the fruits of drunkenness, and perceiving how abundant they are, we are sometimes in danger of thinking that, but for the liquor traffic, evil would hardly exist. But when we travel we find countries where drunkenness is not a national evil, which yet abound in vice, poverty, and crime.

The Mohammedans in Turkey and Egypt are notoriously vicious, yet they are abstainers.

East Indians are abstainers, yet they are extremely poor.

Gambling is a growing evil in England, and is spoken of sometimes as the twin sister of drinking.

But the Italians, who are temperate, are inveterate gamblers, and the Chinese, perhaps the greatest gamblers in the world, are not addicted to alcohol.

Without seeking to minimise the drink evil we should place it in its proper position. Misery and wickedness come from the heart rather than from the environment. Men are not miserable because they are tempted, and unfortunate, and live under bad laws. They are miserable because they themselves are bad.

Some years ago the leader of the Salvation Army published a book in which he conveyed the impression that the miseries of London arose mainly from misfortune, and undertook, if given money enough, to raise the city from the mire. Had he received all that he asked for, however, he could only have helped a handful of the more deserving. London would have remained in the mire just the same. For the misery of humanity, though partly arising from misfortune, is mainly the fruit of sin.

Temperance advocates sometimes argue in the same way. Remove drink, they think, and with it vice, poverty, crime, will also vanish. But this will not be so. The reduction of facilities for drinking will improve the material condition of

the people, but only up to a certain point. Vice and crime have a moral origin. Intemperance, gambling, profligacy and the rest are symptoms rather than disease. The disease is in the heart of man, and the only cure for it lies in the regeneration of the individual. Hence, whilst the value of good legislation is great, moral suasion, personal dealing, and gospel preaching are of paramount importance in temperance work.

Nevertheless drink is the agent through which infinite evil is wrought among us, the cause of many of the ruin-working conditions that exist in our midst. Our slum areas are liquor centres, and drink is responsible for much disease, pauperism, and crime. It causes great deterioration amongst workmen and is the main origin of that apathy which makes our poor so often willing to wallow in filth rather than to exert themselves to improve their condition.

Let us, however, thankfully record that things are not as bad amongst us as they once were.

In the eighteenth century and in the beginning of the nineteenth the condition of England, with respect to drinking, was worse than it is to-day.

Speaking of the metropolis a writer in 1824

says :—" The outdoor aspects of London enjoyment were not unobserved by me. Honestly to speak, it was a dismal spectacle. In every broad thoroughfare and every alley there was drunkenness, not shamefaced drunkenness creeping to its home, but rampant, insolent, outrageous drunkenness. No decent woman, even in broad daylight, could, at the holiday seasons, dare to walk alone in the Strand or Pall Mall."

We have certainly advanced since then. We still drink, but there is less riotous drunkenness than formerly. Much of this may be due to our improved police arrangements. Still things are distinctly better. To be able to drink heavily is no longer a characteristic of a gentleman. There is too much drinking yet, but the drunkard is looked upon in polite society as the skeleton in the cupboard, the death's-head at the feast. All classes, except the poorest, drink less, and drink more decently than in the olden time.

It will be interesting to inquire how this improvement has been brought about.

1. The good example of our Court.

In legislative matters Great Britain is practically

a republic, but in social matters the Court sets the fashion. Until the accession of Victoria the fashion set by the Court was generally bad. But our late Sovereign made clean living fashionable, and lived long enough to stamp her principles upon society deeply, let us hope indelibly.

2. The elevation of our workmen.

During the last half century the status of the working man has steadily improved. He is no longer one in a herd of dumb, driven cattle. He has a vote, a voice in municipal and State affairs, scores of members of Parliament eagerly compete for his favour, few dare openly defy him. He has freedom to combine with his fellows, and is therefore a member of a Trades' Union, which enables him to sell his labour in the highest market and prevents him from being crushed. The spirit of independence thus engendered tends to improve character. It adds dignity to a man and keeps him straight. The fact that there are working-men members in the House of Commons, highly respected and gladly heard, is of itself an inspiration to workers.

3. The education of our workmen.

During the last half century also the workmen have been educated. They can read, the treasures of literature are open to them, their lives have been quickened, they have abundant food for thought. They need no longer go to the tap-room for information, they can buy a daily paper and learn the news of the world for themselves. Many of them have come under definite temperance teaching, in the Board Schools, from the pulpit, and from the platform. Some of the best temperance workers are drawn from the ranks of the working men and their influence tells upon the rest. Foolish theories about the strength given by beer are quite exploded and men drink merely because they like it.

4. The efforts of temperance societies.

The temperance societies have been numerous and have done splendid service. Their workers are drawn from every rank ; no cause, excepting Christianity, has evoked more enthusiastic support. There is no need to single out societies for special mention where all have done so well. Each society has filled its particular sphere and

done its special work. Frequently the same workers have toiled in connection with various societies with equal zeal.

Temperance societies have done service by helping to break down the tyranny of social custom. Sixty years ago, when temperance men began seriously to combine, drink reigned supreme. In workship and palace, from the cradle to the grave, drinking customs dogged the footsteps of humanity. Nearly every incident of life afforded an excuse for indulgence, too often for debauchery. Mr. Dunlop, a magistrate, writing in 1839, about the drinking customs of Great Britain, enumerated 259 forms of the evil. The temperance societies, partly by discountenancing them, partly by enlisting against them the power of association, have been mainly instrumental in breaking down those customs.

5. The reduction of hours of sale.

Until the middle of last century there was no regular closing time for public-houses. No closing hours were fixed by law except during Divine service on Sundays, Christmas, and Good Friday. At other times publicans closed when

they pleased, or not at all if they preferred to remain open. It was common for men and women after pay hours on Saturday to spend Saturday night and Sunday morning drinking in the public-house. Just as people were on their way to church a drunken throng was ejected on to the pavement in accordance with law.

This evil was gradually dealt with and at last, in 1872, the hours of closing were fixed throughout the country. Since then the hours of sale have been further reduced, and every reduction has been a gain to the cause of sobriety.

The closing of public-houses in England on Saturday night and for a great part of Sunday has been of special value. In Scotland and Wales and over most of Ireland complete Sunday closing is enforced.

The reduction of hours, within certain limits, gives rise to no legitimate grievance, and is as great a benefit to the publican as to the public. The long hours worked by the publican and his assistants in a wretched atmosphere are fatal to longevity.

6. The reduction of public-houses.

Licenses were formerly granted with great

freedom until their number exceeded every reasonable requirement. For this state of affairs the magistrates were not wholly responsible. Nearly half the licenses in England were granted by the Excise without reference to the magistrates. This is specially true of ante-1869 beerhouse licenses and of grocers' licenses, but it is also true of certain spirit licenses which were granted in the first instance by the Excise during that period in English history when spirit licensing was withdrawn by the Legislature from magisterial control. Since the Licensing Act, 1902, the control of the retail trade has passed largely into the hands of the justices. There are still certain exceptions, the peculiar position of the ante-1869 beerhouse and the life tenure of the grocer's license being the most important.

Moreover, it is only during recent times that the magistrates have realised the full extent of their powers. A long series of cases carried from court to court and decided uniformly in favour of the magistrates have at last made it clear that they may grant or refuse licenses at will. They now realise that they are trustees

for the public welfare so far as licensing is concerned, and they have begun to take a livelier interest in their trusteeship.

In Liverpool a great improvement has been effected by the magistrates. The worst houses were closed, the rest are strictly supervised. The results are remarkable. The arrests for drunkenness are one-fourth of what they were formerly, and the cost of the police force has been substantially reduced.

In other parts of the country there has been similar activity, and though no very great reduction may have been made in the gross number of licenses throughout the country, it is satisfactory as far as it goes. The days of indiscriminate licensing are over.

7. The provision of recreative facilities for the people.

This branch of reform may not always have weighed with temperance advocates as it should, though there is no reason why the burden of providing recreation for the people should be specially placed upon their shoulders. Still it is of great importance.

Nature demands recreation, it is necessary for body and mind. Hurtful forms of recreation should be avoided, but recreation of some sort humanity must have.

The kind of recreation suitable for each individual varies with his environment. Workers in the open air prefer indoor recreation ; those who are confined in offices and shops long for the open air. A man who toils all day with his muscles wants to lounge in the evening ; the young clerk and shopman hurry off to the river or football field.

Every agency which meets a legitimate demand for recreation works in the interest of temperance. Every park, common, playground, free library or news-room is a temperance agent. There has never been a more effective temperance agent than the safety bicycle ; it has encouraged rational exercise in the open air, and discouraged the use of alcohol.

Of recent years there has been a large increase in the number of shops where non-alcoholic refreshments might be obtained, and this also has worked in the interest of temperance.

CHAPTER XV

ALCOHOL IN RELATION TO MORALS

HAVING in the preceding chapters dealt with the legislative and social aspects of the liquor question, we must now, in conclusion, remember that the subject has also a moral side.

As a voluminous literature exists upon this branch of the question, it may be dealt with here very briefly. We shall satisfy ourselves with merely noting with a few words of explanation the various arguments, bearing upon individual action and influence, which have induced many amongst us to refrain altogether from the use of alcohol as a beverage.

Men become abstainers for various reasons :

1. To avoid personal danger.

We mostly begin life under the impression that

we are strong, but, if wisdom comes with years, we learn our weakness.

Sometimes a man of earnest purpose, seeing rocks ahead, is brave enough to check himself. Samuel Johnson was such an one. Surrounded by drinking men, and stronger than most, he yet saw how alcohol had power to paralyse the will, and, at a time when abstinence was rare, he became an abstainer.

The argument of personal danger should appeal with special force to those whose progenitors drank. Intemperance is a vice, a breach of the moral law, and a sin against God. But it is more, for the lack of self-control which makes the drunkard may be transmitted to his offspring. In families, therefore, where the predisposition exists, there is no safety except in abstinence.

2. To lengthen life.

Formerly alcoholic drinks were considered necessary. With few exceptions doctors administered alcohol freely, and boycotted such of their number as dared to protest.

If a man wished to insure his life and confessed

himself an abstainer, the fact was noted as adverse to his claim.

All this has changed. The researches of scientists, the experience of the London Temperance Hospital, and the statistics of insurance companies have proved that alcohol is a dangerous drug, of no value as a food, and only to be used with extreme care as a medicine. It is proved that the chances of life are in favour of abstainers, that habitual indulgence in intoxicants shortens life, and that the shortening is roughly proportional to the degree of the indulgence.

3. To preserve a sound judgment.

Though strong drink exhilarates for the moment its subsequent effect is to blunt the perceptive faculties. But whether exhilarated or depressed, the drinker is prevented by it from applying his best judgment to the point at issue.

Many a ship has been lost, not because the captain was drunk, but because he had been drinking, and was not quite at his best when the crisis came.

Many a battle has been lost because before it the wine had been flowing freely in the General's tent.

Many a bad bargain has been made under the influence of "something sparkling," and a pint of claret has mellowed the representative of many a business firm, and led to arrangements which were not always what they should have been. Time was, indeed, when business could hardly be transacted without the aid of alcohol. Fortunately a better day has dawned, and the commercial man whose head is always clear is the one sought after.

4. For the sake of their children.

There is no more sacred inducement to abstain than the hope that we may thus influence our children for good.

Children are a great trust from the Creator, and recommended by Him to our especial care. They develop a new side of our nature, and teach us much if we have teachable spirits. They teach us to love, they teach us self-sacrifice, and, if we are worth anything at all, they teach us, for the sake of example, to fight against besetting sin. It pains us to see them suffer; we long to sweeten their lives; we desire that they should be sheltered from evil.

Now it is worth noting that most children are born with an aversion to alcoholic liquor. A child has to be pressed to take his first sip of wine or beer, and it is generally nauseous to him. Clearly, Nature has erected a barrier between children and alcohol which must be broken down before the child will use it. How great the responsibility of the one who breaks down the barrier! Should the child not share this almost universal aversion to alcohol the danger is yet more serious, for in such cases it is probable that a predisposition has been transmitted from parent to child.

Sometimes parents, who do not themselves abstain, pride themselves upon the fact that their children do. Their satisfaction is generally short-lived. Children, as they grow up and can act independently, follow example rather than precept.

5. For the sake of their friends.

It may be that we are strong. Just as there are men to whom alcohol is a special peril, so there are men who are not greatly tempted by it.

This is even true of races. The Jewish race

is remarkably sober. Jews are found in every clime and under every condition, and with few exceptions they are temperate.

On the other hand, uncultured races, coming into contact with white men, are an easy prey to alcohol. Those who have experience of Kaffirs know how quickly drink demoralises them. The Australian aborigine cannot resist it, and the North American Indian has been almost exterminated by it.

Now we, thinking ourselves strong, may ask why we should deprive ourselves of enjoyment because others are weak. Two reasons will suffice.

(1) To give our weaker friends moral support.

We acknowledge that the morally weak should abstain. But if only such abstained, total abstinence would be a public confession of moral weakness. Under such circumstances abstinence would be a badge of degradation. Abstainers have found a better way. Instead of saying to their weaker brethren, "Go and abstain," they say, "Come, and let us abstain together."

Thus weak and strong stand side by side, and there is no disgrace.

(2) To show a good example.

As with our children, so also in wider spheres, precept is valueless without example.

It seems unkind to assert that the moderate drinker does more harm by his example than the drunkard, yet it is true. Publicans sometimes declare drunkards to be the worst enemies of the trade. In a sense it is so.

No youth is tempted to drink by the sight of drunkenness; rather is he repelled. But the boy who sees his father drinking in moderation, the lad who sees his teacher or his pastor enjoying their glass of wine, and apparently taking no harm, is seriously tempted. And the father may be stronger than the son, the pastor stronger than the Church member; and where these can stand safely the others may miserably perish.

If we are neither parents, nor pastors, nor teachers, we are nevertheless continually under observation. Most men overrate their abilities, but underrate their influence. If we desire that our influence should be on the right side, we should abstain.

6. Some become abstainers from their experience of social work.

(1) They find that drink blocks the path of reform.

No matter what line reform may take amongst the masses, drink blocks the way. Whilst men drink it seems impossible to elevate them. There are towns in England where poverty would be unknown but for drink. The writer was in a north country town recently where men and women alike were earning excellent wages. Just a few days before, on a Tuesday, a man had come before the guardians soliciting poor-law relief. It was proved that on the Saturday he and his children had amongst them received £4 7s. 6d. in wages. In three days earnings which might have kept the family in comfort for three weeks had been dissipated in drink. The same kind of thing was happening on every side. Instead of using their wages in improving their conditions and laying past for a rainy day, the inhabitants of the town spent their surplus in sport and drink. The same thing happens continually on a national scale. The amount of

drinking fluctuates with the amount of trade. A prosperous year means a heavy drink bill; big wages mean big drinking.

(2) They learn that there is no hope for the masses short of total abstinence.

Working men are not very often habitual inebriates. The habitual inebriate is more often to be found amongst office clerks, small tradesmen, and the like, the class of men who haunt billiard-rooms, and soak. The open-air life and continual muscular exercise of the working man enables him to stand a good deal of alcohol without becoming a dipsomaniac.

The trouble with the working man is that he wastes in liquor money which should be otherwise spent. The wage-earning classes of Great Britain spend one hundred million pounds annually in intoxicants. Yet when the average earnings of working-class families is put as high as possible, and the cost of living put as low as possible, even at pauper fare, they only earn enough to provide the necessaries of life. The working classes have no margin for drink, yet they spend one-sixth of their wages in this way,

and many of them much more. They can only do this by cutting down the family expenditure in food, clothing, rent, and fuel. A large percentage of the people are in want, underfed, insufficiently clothed, badly housed, and living in sordid conditions, not because the parents are drunkards, but because the margin of the wages over mere subsistence allowance is spent in drink.

Now when working men become abstainers all this quickly changes. Their position improves, they leave the slums and live in decent houses. But a drinking man does not rise above his surroundings. If he determines to merely drink less his resolution fails him. His environment is of such a nature that for him there is no choice between all and none. If he abstains he escapes from his environment; if not, he remains the creature of it, and sinks more deeply in the mire.

(3) They learn that abstinence increases their influence.

Many sincere men, whilst yet moderate drinkers, have gone forth to labour amongst the poor; but

few who have continued to labour have continued moderate drinking.

Face to face with the misery caused by drunkenness, they have soon realised that there was but one way ; they have seen that for those amongst whom they were labouring there was no safety except in total abstinence, and they have learned how vain it is to preach total abstinence to others unless the preacher is himself an abstainer. Thus the conscience has been aroused, they have become abstainers, and have had their reward in increased usefulness.

The influence of an educated worker amongst the poor is indefinitely increased if the spirit of self-denial is apparent. Had the temperance movement done nothing else, it has done much in giving to the world many workers imbued with this spirit.

CHAPTER XVI

BIBLIOGRAPHY

England.

The Licensing Laws. *Montgomery.*

The Licensing Acts. *Lely and Foulkes.*

The Law and Practice of Licensing. *Talbot.*

Legal Status of Licensed Victuallers. *Hindle.*

Need and Practicability of Licensing Reform. *Slee.*

Practical Licensing Reform. *Peel.*

Nineteen Centuries of Drink in England. *French.*

History of Liquor Licensing in England. *Webb.*

Royal Commission on Liquor Licensing Laws (Final Report), 1899. *Eyre and Spottiswoode.*

Licensing Act, 1902. *Eyre and Spottiswoode.*

Reports of Inspector under Inebriates Acts. *Eyre and Spottiswoode.*

SCOTLAND.

The Scottish Licensing Laws. *Purves.*

Licensing Act, 1903. *Eyre and Spottiswoode.*

UNITED STATES AND CANADA.

The Liquor Problem in its Legislative Aspects. *Committee of Fifty, New York.*

Liquor Legislation in the United States and Canada. *Fanshawe.*

One Hundred Years of Temperance. *New York.*

SCANDINAVIA.

The Gothenburg System of Liquor Traffic (Official Report). *Gould, Washington.*

The Gothenburg and Bergen Public-house System. *Whyte.*

The Gothenburg System. *Johnson.*

Local Option in Norway. *Wilson.*

International Kongress zur Bekämpfung des Missbrauchs geistiger Getränke. *Basel.*

RUSSIA.

Russian Temperance Committees. *Contemporary Review*, December, 1902. *Sellers.*

Congrès International contre l'abus des boissons Alcooliques, 1899. *Paris.*

GENERAL.

Temperance History. *Dawson Burns.*
Temperance in the Victorian Era. *Dawson Burns.*
History of Drink. *Samuelson.*
Drink, Temperance, and Legislation. *Shadwell.*
The Commonwealth as Publican. *Walker.*
The Temperance Problem and Social Reform. *Rowntree and Sherwell.*
British Gothenburg Experiments. *Rowntree and Sherwell.*
Public Control of the Liquor Traffic, *Rowntree and Sherwell.*
Inebriety. *Dr. Norman Kerr.*
Alcoholism. *Dr. Archdall Reid.*
The Drink Question. *Dr. Mitchell.*
Drunkenness. *Dr. Wilson.*
Local Option. *Imperial Parliament Series.*
The Place of Compensation in Temperance Reform. *Sanger.*
Public-house Trusts and Municipalisation. *Malins.*
Public-house Trusts. *Batty.*
Compensation to Publicans. *Batty.*

Birmingham Surrender Scheme. *Chamberlain.*

The Economic Aspect of the Drink Problem. *Whittaker.*

The Prohibition Movement. *United Kingdom Alliance.*

Dundee Convention Report, 1898. *Scottish Temperance Federation.*

World's Temperance Congress, 1900. *National Temperance League.*

The Gresham Press,
UNWIN BROTHERS, LIMITED,
WOKING AND LONDON.